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COMMITTEE PRINT

**IMPLEMENTATION OF THE FINAL ACT OF THE
CONFERENCE ON SECURITY AND COOPERATION
IN EUROPE: FINDINGS AND RECOMMENDATIONS
TWO YEARS AFTER HELSINKI**

REPORT

TRANSMITTED TO THE
COMMITTEE ON
INTERNATIONAL RELATIONS
U.S. HOUSE OF REPRESENTATIVES

BY THE
COMMISSION ON SECURITY AND
COOPERATION IN EUROPE



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FOREWORD

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C., September 23, 1977.

This report was transmitted to the Committee on International Relations by Hon. Dante B. Fascell, Chairman of the Commission on Security and Cooperation in Europe. It summarizes the implementation of the Final Act of the Conference on Security and Cooperation in Europe 2 years after the Helsinki Conference.

The findings and recommendations contained in the report are those of the Commission and do not necessarily represent the views of the members of the Committee on International Relations.

CLEMENT J. ZABLOCKI, *Chairman.*

(III)

LETTER OF TRANSMITTAL

COMMISSION ON SECURITY AND COOPERATION IN EUROPE,
CONGRESS OF THE UNITED STATES,
Washington, D.C., September 23, 1977.

HON. CLEMENT J. ZABLOCKI,
Chairman, Committee on International Relations, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On August 1, 1977, the second anniversary of the signing of the Helsinki Final Act, the Commission on Security and Cooperation in Europe issued a "Report to the Congress on Implementation of the Final Act of the Conference on Security and Cooperation in Europe: Findings and Recommendations Two Years After Helsinki."

The report is the result of the Commission's continuing efforts to monitor international compliance with the provisions of the Helsinki Final Act. The Commission's report is a comprehensive evaluation of progress, or lack of progress, in the implementation of Final Act provisions. It comes on the eve of the Belgrade meeting at which the 35 signatory nations will review implementation and discuss additional measures for fulfilling the pledges undertaken at Helsinki.

I am sure that the report will prove informative and useful to Members of Congress and other interested parties and I take pleasure in transmitting it to you.

Kindest regards.

Sincerely,

DANTE B. FASCELL, *Chairman.*

LETTER OF SUBMITTAL

COMMISSION ON SECURITY AND COOPERATION IN EUROPE,
CONGRESS OF THE UNITED STATES,
Washington, D.C., August 1, 1977.

HON. THOMAS P. O'NEILL, JR.,
Speaker, U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Public Law 94-304, I am pleased to transmit to you the Commission on Security and Cooperation in Europe's "Report to the Congress on Implementation of the Final Act of the Conference on Security and Cooperation in Europe: Findings and Recommendations Two Years After Helsinki."

This report is the result of the Commission's continuing efforts to monitor international compliance with the provisions of the Helsinki Final Act. Commission activity in the preparation of the report included a study mission to 18 European nations in November 1976 and a staff trip on emigration and family reunification in February 1977 to Austria, Italy, and Israel. Between January and June 1977, the Commission held 14 public hearings with a total of 56 witnesses, including the Secretary of State. Staff surveys were administered to 1,035 recent Soviet emigrants, 88 major U.S. companies involved in East-West trade, and Western journalists in the U.S.S.R. and Eastern Europe. Commission staff has attended numerous national and international symposia on the Helsinki Final Act and related topics and worked closely with the Department of State in preparation of the Belgrade meeting. The Commission's report is a comprehensive evaluation of progress, or the lack of progress, in the implementation of Final Act provisions.

The report transmitted to you on the second anniversary of the signing of the Final Act, comes on the eve of the Belgrade meeting at which the 35 signatory nations will review implementation and discuss additional measures for fulfilling the pledges undertaken at Helsinki.

Many Members of Congress have joined other Government officials, academicians, and experts from the private sector in making valuable contributions to the Commission's work. I am sure that the report will be of great interest to Members of both the House and Senate.

Sincerely,

DANTE B. FASCELL, *Chairman.*

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CHAPTER I—INTRODUCTORY SUMMARY

BACKGROUND

THE COMMISSION

The Commission on Security and Cooperation in Europe, an independent advisory agency, was created by Public Law 94-304, signed June 3, 1976. The legislation, sponsored by Representative Millicent Fenwick and Senator Clifford P. Case—

Authorized and directed [it] to monitor the acts of the signatories which reflect compliance with or violation of the articles of the Final Act of the Conference on Security and Cooperation in Europe, with particular regard to the provisions relating to Cooperation in Humanitarian Fields.

Chaired by Representative Dante B. Fascell and co-chaired by Senator Claiborne Pell, the Commission is composed of six members of the Senate, six members of the House of Representatives and one member each from the Departments of State, Defense, and Commerce.

The Commission has carried out an inquiry into Final Act compliance in a variety of ways. Beginning in January 1977, it has heard 56 witnesses testify in 14 public hearings in Washington, D.C., on Final Act interpretation and implementation. The hearings, including lengthy written submissions from individuals and organizations unable to testify in person, have been printed in five volumes. Five Commission members traveled as a study mission to Europe, visiting officials, institutions, and private citizens in 18 West European signatory states in November 1976. The Commission staff has conducted extensive correspondence and interviews with Helsinki experts and interested parties in the United States and abroad, including an unprecedented survey of 1,035 recent emigres from the Soviet Union, interviewed in Israel, Italy, and the United States about the conditions of their departure from the Soviet Union.

SCOPE OF THE 2-YEAR REPORT

This report and its findings and recommendations are drawn from material compiled during the Commission's inquiry. Mandated by law to give "particular regard" to the provisions of the Final Act section (Basket III) on Cooperation in Humanitarian and Other Fields, the Commission was—

Further authorized and directed to monitor and encourage the development of programs and activities of the United States government and private organizations with a view toward taking advantage of the provisions of the Final Act to expand East-West economic cooperation and a greater interchange of people and ideas between East and West.

Guided by the law's dual directive, the Commission has concentrated its attention on the implementation of the provisions of Baskets II and III of the Final Act by the United States and American

organizations, on one hand, and the seven Warsaw Pact signatories, on the other. The focus on U.S. implementation is self-explanatory for an American agency. The concentration on compliance by Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania, and the Soviet Union requires further explanation.

Analyzing the Final Act sections on which it was directed to comment, the Commission determined that the Helsinki accord language fairly reflected what are already standard practices or patterns of conduct in most of the West European signatory states. The Commission reached that determination on the basis of its study mission's extensive conversations with officials and private individuals in the 18 signatory states the study mission visited in November 1976.

Its judgment has been reinforced through the continuing contacts Commission members and staff have had with representatives of the West European governments and parliaments as well as private experts in many formal meetings and informal conversations in 1977. Where Warsaw Pact countries refused even to admit Commission members in 1976, Western signatories the Commission has approached have been forthcoming both in explaining their own implementation activities and in exchanging views on the progress of compliance elsewhere.

For the neutral and nonaligned participants in CSCE, as for the NATO members, compliance requires various alterations in existing attitudes, practices, and even laws and regulations. With respect to Principle VII and Basket III—though not always to Basket II—these alterations are comparatively minor.

The most difficult adjustments in existing and traditional patterns of conduct are required, in contrast, of the seven Warsaw Pact signatories. There are the more sweeping restrictions—varying from nation to nation—on freedom of movement for their citizens, dissemination of information, facilities for contact with foreigners and circulation of ideas from abroad.

Although Western societies, in general, already meet Final Act standards of openness, the Eastern regimes, in general, again, are relatively closed. Therefore, in examining the impact of the Final Act—actions reflecting compliance with or violation of its articles—the Commission staff has directed most of its research to those nations on whose domestic conduct the Helsinki accord should be having the greatest impact.

For different reasons the Commission has given little or no attention in its inquiries and in this report to a number of Final Act subsections. Some, like those on confidence-building measures in the realm of military security, have been discussed in detail in the semiannual reports submitted by the President to the Commission on December 3, 1976, and June 3, 1977. Others, such as "Questions relating to Security and Cooperation in the Mediterranean," "Questions relating to disarmament," "Arbitration," "Development of transport," and "Training of personnel" were both too complex and too marginal in relation to the Commission's mandate to be treated satisfactorily in this report.

Finally, though the Commission believes the Final Act should be evaluated as a whole with each part of it accorded proper weight, in this report some aspects are treated more extensively than others. This is due to the Commission's mandate, as defined by the law which cre-

ated it, and to the inability of the Commission—with limited time and resources at its disposal—to deal in great detail with some of the subjects covered by the Final Act.

Where evidence can be found to support conclusive measurement of the signatories' compliance, we have presented and evaluated it. Where such documentation cannot be definitive, we present a partial record descriptively. And where evidence is inconclusive, we withhold comment.

Throughout, this report assesses the impact of the Final Act not on individual instances of official behavior but on *patterns of conduct* in the domestic and international affairs of the signatory states. The report is not a record of compliance and noncompliance, but of the *process* of implementing the Final Act.

It cannot, by definition, be final. It is an evaluation of progress.

FINDINGS AND RECOMMENDATIONS

GENERAL FINDINGS

In December 1976, at the conclusion of an 18-day study mission in Europe, five members of the Commission on Security and Cooperation in Europe reported that the "potential" of the 1975 Helsinki accords "for improving East-West relations over the long term is far more significant than their initial impact."¹

Eight months of inquiry later—on the second anniversary of the signing of the Final Act—the Commission remains confident of the constructive "potential" of the 35-nation agreement. It finds, however, that much of the potential is yet to be realized.

The potential has been dramatized by the popular response in Eastern Europe and the Soviet Union to the Helsinki accord provisions on human rights, eased conditions for travel and family reunification and freer flow of information. The impact of the Final Act on private individuals—thanks to its immediate and widespread publication in the Warsaw Pact states—has been great. Its publication stimulated significant expectations of change in governmental conduct. Those expectations, however, have been dashed in some instances, realized only partially in many others.

Signatories have been obliged by a variety of political considerations to move cautiously, if at all, to tailor their foreign or domestic conduct to the specifications endorsed at the Helsinki summit of the Conference on Security and Cooperation in Europe. Having "declare[d] their determination to act in accordance with the provisions contained" in the Final Act,² the participating states have—with a few significant exceptions—generally continued to act with limited regard for the undertakings they gave one another on August 1, 1975.

The Final Act was meant to give an impulse toward a common code of European and North Atlantic diplomatic and civil conduct. Both an expression of and a political stimulus to the process of international détente, the Final Act is also, quite specifically, a framework

¹ "Report of the Study Mission to Europe to the Commission on Security and Cooperation in Europe" (Washington, D.C.: U.S. Government Printing Office, Feb. 11, 1977), p. 2. (Referred to throughout the report as CSCE Study Mission Report.)

² Citations from the official English text of the Final Act of the Conference on Security and Cooperation in Europe appear here and throughout the report in quotation marks but without footnoted reference to the Final Act subsections from which they originate.

for relaxation of East-West tensions and the promotion of more stable relations between different and differing social systems.

As a nonbinding declaration of intentions (not a treaty), however, it could do no more than define aspirations and outline the manner in which they were to be met. The record of its implementation is the test of its impact.

The record of the first 2 years has been more productive than the Commission expected, though far short of the high promises which the language of the Final Act holds forth. Signatory nations have treated the document seriously, though respect for some of its provisions—particularly in the area of human rights—has not matched either the commitments given nor the hopes those pledges aroused. The Helsinki accord has not brought dramatic changes in East-West relations, but history may note it as more than a small step toward peace and a stability based on something more than mutual fear.

Two years is a relatively short time in which to alter the long standing practices of sovereign nations, either in regard to one another or to their citizenries.

In measuring the achievements of the Helsinki accord,

Secretary of State Cyrus R. Vance cautioned the Commission,

I do not think that one can take a look at it in this moment alone and say it has either been a success or a failure. I think what you have now is a mixture of things. We have some slight movement forward in certain areas; we have no movement in others; and we have retrogression in others. But I think that a process has been started . . . and that we must stay with that process and continue to press what we believe to be correct.³

The Commission concurs in stressing the value of a process which has made it possible for the officials and private citizens of the 35 signatories to engage one another in discussions and exchanges made legitimate and significant by the Final Act. At the international level, the conference of the participating states in Belgrade this year creates the first opportunity to evaluate jointly the progress that has and has not been made and to impart fresh momentum to the process which the Final Act set in motion.

The conferees at Belgrade, however, have little reason for self-congratulation. As they review the record of implementation, they must conclude—as this Commission does—that the distance to be covered toward the Final Act's goal of "peace, security and justice and the continuing development of friendly relations and cooperation" is far greater than the very limited advances already achieved.

No participant in the Belgrade meeting can convincingly claim for his nation a perfect record of compliance with all Final Act principles and provisions. All too often the intentions the signatories expressed have been ignored in practice. On occasion—and, in some instances, systematically—the letter and spirit of the Helsinki accord have been violated.

The burden of responsibility for failures of omission and commission in human rights and humanitarian matters does fall more heavily on the countries of the Warsaw Pact than on the other 28 signatories, either individually or in various groupings. It must be recognized that the Final Act, by the nature of its provisions, calls for more action by

³ Hearings on "Implementation of the Helsinki Accords, before the Commission on Security and Cooperation in Europe, Basket III," vol. IV (Washington, D.C.: U.S. Government Printing Office, 1977) p. 90. (Referred to throughout the Report as CSCE Hearings.)

the Soviet Union and its East European allies to alter existing practices than it requires of the Western signatories. It would be a mistake, however, to consider all Warsaw Pact states as having entirely common policies in this regard. There is a degree of East European government concern over human rights to which Western observers are sometimes insensitive.

A relatively open society has little difficulty honoring commitments such as those of the Final Act signatories—to ease travel, contact, and flow of information across frontiers. The adjustment—though it has not yet been fully made in the visa-issuing practices of France, Great Britain, and the United States, for instance—need not be politically wrenching.

Rapid, full compliance would, however, be unsettling to the traditions and attitudes of the Communist nations. Yet even where gestures of compliance have been made, they have been dilatory and largely cosmetic.

Progress, in summary, has been inadequate. Measured against either the hopes voiced at the Helsinki summit or the need for smoother and more stable relations among the signatories, the implementation of the Final Act has fallen short.

OVERALL RECOMMENDATION

One reason it has had so little impact on existing patterns of conduct lies in its very nature as a declaration of intent. While opening broad (and often preexisting) vistas of cooperation, it neither specifies priorities nor defines actions to be taken. What it lacks—and what the Commission recommends the signatories undertake to provide—is an agenda for implementation.

The agenda need not be a single document like the Final Act. Rather it could be a mix of unilateral, bilateral, and joint commitments to well-defined actions spaced over the next 2, 5, and 10 years, including actions which the United States could propose during the Belgrade Conference. Each participating state would initially define those areas of its own behavior which are at variance with Final Act provisions and then make public a timetable of remedial action. In bilateral areas, the signatories would similarly declare their readiness to negotiate agreements or broaden existing ones implementing Final Act provisions. Finally, in a process that should also be based on the review of past implementation at the 1977 Belgrade meeting, the 35 states would define a limited number of collective projects for joint and specific development.

Illustratively, a signatory's *domestic agenda* could include:

- ratification of the International Covenant on Civil and Political Rights and Optional Protocol;
- a pledge of voluntary advance notification of military activities involving, for example, movements of 10,000 or more troops;
- a commitment to publish, circulate and keep up to date directories of officials and businessmen active in various export and import sectors of the economy;
- a promise to reduce—to one third or less of the average industrial monthly wage—the charges for obtaining international travel documents valid for 5 or more years;

- an undertaking that entry visas requested for personal or professional travel will be issued or denied within 3 weeks of their being requested and that, if denied, the specific reasons for the denial will be communicated in writing both to the applicant and the government whose passport he or she holds;
- an agreement to permit the establishment in the capital and other major cities of admission-free, public reading rooms or cultural centers where, at their own expense and without host-country interference, other Helsinki signatory states could make available publications, films, lectures and similar material or performances of an educational nature; and
- the allocation of funds to support a government prize to be awarded annually to the best translation of works published in the donor country of contemporary fiction, drama, poetry, literary criticism, history and sociopolitical comment from the languages of the other Helsinki signatories.

A *bilateral agenda* for Final Act implementation could include declarations of readiness to grant multiple exit-and-entry visas to frequent business travelers from other signatories on the basis of agreed lists of such travelers, to establish government-financed exchanges of translators and language teachers, to fund summer or holiday exchanges of high-school or college-level students by providing for their vacations to be spent in families with children of similar ages, and to produce joint debates or discussion programs on current political events for broadcast by government-supported television networks.

Finally, a *multilateral action program* could encompass specific projects for the United Nations Economic Commission for Europe; it could serve as a clearinghouse for notification of foreign trade laws and regulations and as an agency for standardizing and harmonizing statistical terminology. The Belgrade Conference could create a working group to discuss different signatory standards of state secrecy and to seek an agreed listing of nonsecret activities and domains of information. The Conference also could establish a working group to inventory existing research work in specific medical or other scientific fields where exchanges of experience and data could assist the progress of research.

The multilateral cooperation agenda could appropriately be considered at the 1977 Belgrade Conference, but the signatories should also be encouraged to formulate their programs for domestic and bilateral implementation on the basis of that Conference's discussion of Final Act implementation. As specific Final Act topics are discussed at Belgrade, it would be advantageous to have each signatory make formal declarations of plans to address the relevant issues with programs of its own or engagements to be undertaken bilaterally with other states. Those declarations, compiled and released at the conclusion of the Conference, could constitute both the agenda for future implementation and the yardstick by which the Final Act's actual impact could be reviewed at the next meeting of the participating states.

The agendas for progress, however, need not be limited to pledges given this year or in the Belgrade context. Every signatory should carefully consider its intentions and its possibilities to make good on

specific undertakings in the Final Act. At times of its choosing, it should advise the other Helsinki states of its planned program of action.

Such calendars of compliance would put real substance into the framework of cooperation the Final Act constructed. They would establish priorities and define not only the direction but also the pace of the Helsinki process. The Commission strongly urges each signatory to give serious thought to promulgating such agendas for Helsinki implementation and to committing itself sincerely to meeting whatever agenda it adopts. The United States should take a leadership role in this endeavor.

A STRATEGY FOR PROGRESS

The Helsinki accord is one important contributing factor to the long-term and complex process of East-West adjustment. Its initial impact on that process has been disappointing. Clearly its effect, over time, can only be as constructive as the participating states are willing to make it. The Final Act is more than an agenda of talking points for continuing, cooperative relationships. It is also a set of aspirations to fulfill and solidify those relationships.

It mandates change—in both regulations and attitudes—in many areas of traditional conduct. Such changes come slowly in many systems, including our own. The pace of change can be stimulated but it cannot be forced.

Therefore, the Commission strongly counsels all signatories to practice patience and balance in the pursuit of implementation. In reviewing what has and has not happened—at the 1977 Belgrade Conference or in bilateral consultations—the participating states must be candid about what they perceive as their own and each others' shortcomings. An open airing of disputed interpretations and a straightforward examination of problems of compliance are needed to open avenues of accommodation.

Candor, however, need not be expressed intemperately. Serious concern need not be translated into intransigence. The signatories should recognize that the Helsinki process could be set back by imposing on it too many demands, too soon. Instead, they should pursue a limited number of concrete initiatives in a carefully organized, consistent, low-key, continuing effort to encourage and reward progress.

The United States can and should set an example in this respect. The Commission's study mission to Europe recommended, and the full commission approved, the establishment of a "mechanism within the United States [government] through which our own compliance with the provisions of the Helsinki Final Act can be measured and improved."⁴ An ad hoc interagency committee on CSCE has been created under the direction of the Department of State.

That committee should be made a formal, coordinating body both for the examination of Final Act compliance activity in the United States and for the development of a coordinated plan of positive action—such as the domestic implementation agenda proposed above—to give effect to the Helsinki accord in American practice.

⁴ CSCE Study Mission Report, p. 9.

What the United States does not do at home, it cannot realistically expect others to emulate or improve on. By demonstrating in specific actions our own commitment to make the Final Act a guide to conduct, we can, however, hope to advance the process of compliance in other nations.

OTHER FINDINGS AND RECOMMENDATIONS

Below, in highly condensed presentation, are the detailed, section-by-section conclusions and recommendations of the Commission report.

Human rights

Findings.—The human rights pledges given in the Final Act elicited a strong response among some citizens in the Warsaw Pact states. Individually and in groups in such countries as Czechoslovakia, East Germany, Poland, Romania, and the Soviet Union, they have sought to have the Helsinki code applied in practice to their own and others' claims to freedom of expression and conscience.

Too often, their initiatives in support of Final Act compliance have been answered by acts of official repression, systematically so in the Soviet Union. In a few Warsaw Pact states however, there have been limited signs of official willingness to accept Helsinki human rights standards as they have grown and become established in the West. Among East European states where religion is practiced with fewer restrictions than in the U.S.S.R., tolerance by government authorities in other areas has distinct political limits.

Acts of intolerance are jeopardizing progress toward the overall goals of the Final Act: the promotion of mutual understanding which can serve as a foundation for improved international security and cooperation. Signatories pursuing detente with a human face find it still beyond their grasp.

Recommendations.—The highest international priority in the human rights field is to establish at the 1977 Belgrade Conference the precedent that sovereign states can soberly discuss each others' compliance with a code of domestic conduct all have agreed—as a principle of their mutual relations—to respect. The signatories should establish that precedent by conducting a thorough, straightforward and non-olemical exchange of views on how the human rights code has been implemented, how it has been violated, and how it can be made an effective guide, over time, to official behavior, with a view toward ending the violations.

The purpose of such a discussion is to seek common ground, not exacerbate ideological differences. Progress toward that common ground can be speeded—even before the Belgrade meeting—by actions demonstrating tolerance toward the human rights activists whom Warsaw Pact states now subject to harsh reprisals.

Unilateral gestures—reciprocal in nature—to establish the option of political exile and the right of political asylum would be welcome. It is also important for all signatories which have not yet done so—and for the United States, in particular—to make formal their adherence to the international agreements on human rights the validity of which the Final Act reaffirms.

Basket II

Findings.—Designed to stimulate cooperation in international commerce, science, technology and the pursuit of common approaches to such global problems as environmental protection, the lengthiest and broadest section of the Final Act has added little fresh momentum to processes already underway in these areas.

Recommendations.—Clarification of the concept of mutual benefit and of the principles of equal or nondiscriminatory trade would be helpful. If Eastern commercial and financial interests are to receive the same treatment as Western interests in the world market for goods and credit, then they must meet conditions similar to those normally assumed by Western commercial interests:

- Sellers and buyers must have access to independent, reliable data and to end users or suppliers, or the resulting sense of market uncertainty will lead to higher prices for sales, lower prices for purchase, and lower priorities for delivery;
- Creditors need information on which to estimate credit-worthiness and ability to repay. Absence of such information might lead to less favorable credit terms and availability of loans; and
- All parties require assurances, first in principle and then in practice, that the East-West relationships they are building will be stable and long term in nature, not just last-resort sources or markets.

Signatories requiring entry visas for foreign businessmen should issue multiple exit-and-entry visas to frequent commercial travelers; the United States should make a comprehensive review of its non-tariff barriers to the expansion of exports, imports and foreign investments and explore opportunities for relaxing certain restrictions in relation to other signatories' efforts to implement Final Act provisions; all signatories should support efforts by the United Nations Economic Commission for Europe to foster improvements in the international flow of economic and commercial data; signatories should strongly protest Soviet actions discriminating against certain scientists seeking to leave the U.S.S.R.

Basket III—Human contacts

Findings.—While certain Warsaw Pact states have relaxed travel restrictions on some applicants for family reunification, regulations to facilitate that or other kinds of travel are still complex and usually restrictive. Western practices, though already markedly more liberal than Eastern regulations, retain restrictive features of their own—particularly on entry visas—which do not fully conform with the thrust of the Final Act.

Recommendations.—Signatories should take measures to facilitate travel by publishing all relevant regulations, insuring ease of access to applications for travel permits, cutting the amount of paperwork required to document such applications, eliminating parental-consent requirements for adult travelers, formalizing in writing and with definite time limits the responses to travel applications, making processing fees nominal, and insuring judicial review of denials of travel applications; the signatories should initiate a joint study of existing definitions of “national security” restrictions on the right to travel with a view toward establishing a common standard for such limita-

tions; the United States should simplify its procedures for granting or denying entry visas.

Basket III—Information

Findings.—Warsaw Pact signatories have taken, at best, only small steps to improve the flow of information from other signatories, retaining unchanged the state's monopoly on that flow; in Western signatories, where access by all to information of all kinds is fundamentally free, governments have not sought to stimulate translations and sales of literature from Eastern Europe.

Recommendations.—The signatories should agree in the course of the 1977 Belgrade meeting to move toward the establishment of book stores in each others' capitals and major cities, on a shared-cost basis, to provide for their citizens' easy and continuing access to periodical and other literature in original languages from other Helsinki nations; they should renew their commitment to encourage direct contacts between writers and publishers in different countries by pledging to remove any impediments to such contact or sanction against it; they should agree to give permanent accreditation and multiple exit-and-entry visas to nonresident foreign correspondents who are frequent visitors; they should protest continued jamming of international radio broadcasts; the United States should take a more active role in assisting its publishers to expand distribution of U.S. literature among Helsinki signatories, particularly by developing means to compensate for sales of such literature in countries with nonconvertible currencies; the United States should fund prizes for American publications of translations of works of literature into English, especially from the languages of the Warsaw Pact states and should expand its financial support for East-West film exchanges.

Basket III—Cultural and educational exchange

Findings.—While considerable post-Helsinki progress has occurred in promoting East-West cultural and educational exchanges, the process has been hindered by Eastern restrictions on scholars' access to research material and travel opportunities and, in the United States, by problems in funding exchanges on the scale some Warsaw Pact states have proposed.

Recommendations.—The signatories should make it their goal gradually but consistently to reduce official, institutional and bureaucratic modes of exchange while fostering direct and informal contacts and activities among schools and scholars, performing artists and others active in the field of culture; the United States should expand its financing of relevant cultural and educational exchange activities, should move to strengthen its own foreign language and areas studies programs, and should establish a Moscow office to assist all U.S. participants in formal and informal exchanges with the U.S.S.R.

CHAPTER II—HUMAN RIGHTS

FINDINGS AND RECOMMENDATIONS

INTRODUCTION

Reflecting a profound American policy concern, the Commission has given considerable attention to a remarkable feature of the Final Act: the provisions for government respect for human rights and fundamental freedoms and commitments to promote their effective exercise.

Appearing most prominently in Principle VII of the Declaration of Principles Guiding Relations Between Participating States, the pledge is forthright. It commits the nations which made it to honor and encourage the exercise of those civil, political, economic, social, cultural, religious and minority rights Western political thought has considered a buffer between the individual and state power.

The pledge is also an unusual attribute of such an interstate political agreement. It makes a standard of domestic behavior a guide for international conduct.

"The context in which that pledge is given," Chairman Fascell has noted, "makes it clear the improvement in East-West security and cooperation is as contingent on [a] nation's tolerance for unpopular views at home as it is on that nation's tolerance for the sanctity of its neighbor's frontiers Our security is bound up with gradual acceptance in the signatory countries of the code of conduct for human rights formulated in the Helsinki accord."¹

FINDINGS

The Commission has found little evidence of such "gradual acceptance" of the Helsinki human rights code in the official conduct of the Warsaw Pact signatories.

To the contrary, the Soviet Union has shown a systematic disregard for civil and political rights, nowhere more evident than in the organized, punitive campaign of 1976 and 1977 against the very individuals who sought to promote respect for the Helsinki accord in the U.S.S.R.

Eastern Europe

Human rights practices—tolerant and abusive—vary in scope and degree among the Warsaw Pact states.

Hungary, at the "liberal" end of the spectrum, has shown a cautious acceptance of diverse internal views. Hungarian authorities, for example, have apparently taken no measures against a group of 34 intellectuals who, in the one reported incident of post-Helsinki dissent,

¹ Dante B. Fascell, "Human Rights Abroad: The Link to U.S. Security," letter to the editor, the New York Times, Feb. 18, 1977.

made public a letter of support to the signers of Charter '77 in Czechoslovakia.

Bulgaria, though generally thought to be extremely repressive, represents terra incognita for the Commission. It has no evidence on which to base an informed judgment about change or lack of change in Bulgarian policy on human rights.

While deportation has been the most common East German reprisal against human rights activists since the Final Act was signed, Czechoslovakia has used other punishments—isolation and job ousters, for example. Polish police, who arrested rioting workers in 1976 only to release almost all of them under public pressure, reverted in the spring of 1977 to arresting the workers' defenders among the intelligentsia and—in a welcome move—granting them amnesty.

Romania has sought to intimidate its domestic dissenters with brief spells of imprisonment and long sessions of police interrogation.

In terms of the consistency and scale of its breach of the Helsinki human rights standards, however, the Soviet Union far outstrips its neighbors and cosignatories. While official conduct is not quantitatively and qualitatively comparable to the mass terror of the prewar and postwar Stalin years, Soviet authorities have continued their repression against citizens who express their disagreement with official policies and practices.

That assault violates the promise given in Principle VII. It should be a matter of profound concern to all Final Act signatories and a cause for their strong private and public protest.

Religious liberty

Where Principle VII says that the participating states will respect the freedom of individuals to “profess and practise” their “religion or belief”, the Soviet Union and certain of its allies—in varying degrees—penalize the profession of faith and impede its practice.

It is in the Soviet Union that the devout believer encounters the most severe opposition to his religious liberty. Atheists are free to propagandize; church members risk losing their parental rights if they try to educate their own children in their faith. Ministers who refuse to submit to state regulation of their ministry face—and have received—jail terms for acting as Principle VII sanctions, “in accordance with the dictates of conscience.” Bibles are in very short supply, but unofficial chroniclers of church activities are jailed for preparing and distributing religious literature.

The situation of believers in most East European states is characterized by discrimination but not by active repression. Churchgoers there, for instance, often find their way and that of their children barred to some higher education and certain professions.

Minority rights

Principle VII also commits the signatories to respect the rights of members of national minorities to “equality before the law” and to protect their “legitimate interests” in the “sphere” of human rights. Those interests, as identified to the Commission by spokesmen for various minorities in Eastern Europe and the U.S.S.R., lie in the furthering of cultural, linguistic and religious traditions of disparate ethnic groups. They are not being properly protected in some parts of Eastern Europe and the Soviet Union.

In various East European countries, ethnic Germans and other minorities have been subject to varying degrees of cultural isolation and suffer from the lack of educational opportunity and cultural expression in their own languages.

In the Soviet Union attempts to russify the Baltic States—Estonia, Latvia, and Lithuania—show a consistent disregard for the pledge to protect minorities' legitimate interests. Language use and religious activities are the targets of policies that contravene Principle VII. Ukrainian Catholics suffer a special hardship—the abolition of the church that gave them a historical as well as ethnic identity.

Two other minorities—the Crimean Tatars and the Meskhetians—are victims of another basic inequity. Deported from their ancestral lands on the Black Sea and in the Caucasus, respectively, during World War II, they are still denied the right to reclaim their homes. Other minority populations which were “rehabilitated” in the post-Stalin years have been allowed back to the territories from which they were driven over 30 years ago. Though they have also been restored, in theory, to social respectability, the Crimean Tatars and Meskhetians remain exiles within their own country.

Finally, Soviet Jews seeking the linguistic, religious and cultural community Jews are able to enjoy in other nations, find the path they wish to follow closed by a variety of official and historical obstacles. Decades of emigration and assimilation—as well as the Nazi holocaust—have taken their toll of the Soviet Jewish community. The determination to block a renaissance of that community is, however, a matter of official policy. In their actions against those who seek to teach or study Hebrew or Yiddish, to learn the tenets and traditions of the Jewish faith and to practice that religion, the authorities deny the “legitimate interests” Principle VII should protect.

International human rights standard

Principle VII concludes with the signatories' affirmation that they “will act in conformity with the purposes and principles” of the United Nations Charter “and with the Universal Declaration of Human Rights.” It also provides that they will “fulfill their obligations” under international human rights “declarations and agreements” including the International Covenants on Human Rights.

The Universal Declaration has been called a global Bill of Rights; it was unanimously adopted by the United Nations in 1948 but does not have the force of domestic law within the countries which endorsed it. The International Covenant on Civil and Political Rights, adopted in 1966 and brought into force 10 years later, when Czechoslovakia became the 35th state to ratify it, codifies and amplifies the provisions of the declaration. It does have the force of law in those nations which have ratified it.

The United States has not ratified these international agreements. President Carter pledged to the United Nations last March that he would sign both the civil and political rights covenant, as well as its companion on economic, social and cultural rights and seek their ratification in the Senate. That pledge was overdue. Until it is fulfilled, the United States is at a disadvantage in pursuing respect for the covenants' provisions from those Helsinki signatories which—on the basis of the Commission's findings—are honoring neither the covenants they ratified nor Principle VII, reaffirming their commitment to fulfill the covenants' provisions.

RECOMMENDATIONS

All the principles in the Final Act's introductory Declaration are declared to be "of primary significance and accordingly, they will be equally and unreservedly applied, each of them being interpreted taking into account the others." The signatories were convinced that "respect for these principles will encourage the development of normal and friendly relations and the progress of cooperation among them in all fields." Such respect "also . . . will encourage the development of political contacts among them which in turn would contribute to better mutual understanding of their positions and views."

The fact is that the Communist signatories have failed to respect Principle VII, and their failure has told on the development of "normal and friendly" East-West relations in a negative way. "The progress of cooperation" has been slowed. "Mutual understanding" has deteriorated.

To reverse the process, the offender signatories must first understand that their actions are responsible for jeopardizing détente. The issue of human rights must be established as a legitimate question for sovereign states to discuss among themselves. The 1977 Belgrade Conference to review implementation of the Final Act is the occasion to set that precedent and develop its application.

The Commission therefore recommends that the participating states, in the course of their discussion of security in Europe, give high priority to a serious exchange of views on this admittedly sensitive topic. More than simply proper, it is essential for the health of the Helsinki process that the signatories inquire into one another's actions in fulfillment or default of pledges given in Principle VII.

Case-by-case review

The actions themselves should be discussed in detail. Individuals and groups should be identified by name. The treatment they received should be examined by both the states which view that treatment as a violation of Principle VII, and by those responsible for such treatment. The process of case-by-case review of the application of Principle VII to official conduct in a given signatory state should not be polemical. No one at Belgrade should seek to score debating points off one another, and no one should confuse the process of mutual inquiry with that of a tribunal.

The essential first step—and the one that is possible to take at Belgrade—is that of establishing the right of each Final Act signatory to express its concern about the human rights conduct of every other signatory. The United States should welcome such expressions about its own behavior and should feel free to voice its own interests as diplomatically and constructively as the Commission hopes other signatories will voice theirs.

Review of human rights conduct—even in the context of the 35-nation Belgrade meeting—holds no guarantee of remedy. In the hope that international inquiry can serve as a stimulant to domestic reconsideration, however, the Commission commends to the signatories' attention the following situations:

- the imprisonment in the Soviet Union of nine members of the Public Groups to Promote Observance of the Helsinki Accord in the U.S.S.R.;

- the job dismissals and other forms of isolation imposed on many of the more than 700 signers of Charter '77 in Czechoslovakia; and
- the treatment, which has included periods of confinement, interrogation and house arrest, administered in Romania to the writer Paul Goma and his associates and to spokesmen for the Baptist and Evangelical faiths, such as Pastor Iosif Ton.

The listing above does not define the limits of the Commission's concern for violations of human rights which have been brought to its attention. Many other names and nations could well be cited and should be discussed at Belgrade.

The Final Act review conference, however, is to be the first such meeting, not the last. It is not the only forum in which human rights issues can be raised. Its importance lies in its success in dealing with those issues constructively and in making a beginning on the essential task of keeping questions of domestic conduct productively on the international stage.

The human rights covenants

Finally, the Commission recommends that those Final Act signatories which have not yet signed and ratified the International Covenants on Human Rights—especially the United States—take prompt action to do so.

The covenants are not perfect instruments, and their ratification can be accompanied by appropriate reservations. The act of ratification, however, would be a positive step toward compliance with Principle VII and creating mechanisms to insure international respect for human rights within and beyond the Helsinki states.

INTERPRETATION OF PRINCIPLE VII

INTRODUCTION

Even though the United Nations Charter and the Universal Declaration of Human Rights made the subject of civil liberties a matter of international concern long before the Helsinki accord, the Final Act gave questions of a state's conduct toward its own citizens a fresh prominence and new status. By adopting a pledge of respect for fundamental human freedoms, the signatories made their compliance with that promise as significant a measure of their standing in the community of nations as their respect for their neighbors' frontiers or their willingness to settle disputes peacefully. Thanks to Principle VII and the implementing provisions of Basket III, human rights became a legitimate item on the agenda of East-West relations.

In a sense, the purpose of Principle VII is to hold all signatories to the levels of tolerance and respect for individual beliefs and rights the Western Democracies have enshrined in their written and unwritten constitutions. In making this principle part of the Final Act, the signatories promulgated a standard of *internal* conduct as a measure of *international* good faith.

Human rights—defined in Principle VII as “deriv[ing] from the inherent dignity of the human person and essential for his free and full development”—are acknowledged as a major element of peaceful, cooperative, European behavior. They are not freedoms that can be

granted or withheld at the pleasure of any one government without inviting the contempt and distrust of all its neighbors. Respect for human rights is made an aspect of "mutual relations" among the signatories and their "joint and separate endeavor" to "promote universal and effective respect" of human rights is made a further test of sincerity.

FINAL ACT PROVISIONS

The language of Principle VII, entitled "Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief", deserves to be cited in full:

The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

They will promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development.

Within this framework the participating States will recognize and respect the freedom of the individual to profess and practise, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.

The participating States on whose territory national minorities exist will respect the right of persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere.

The participating States recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation among themselves as among all States.

They will constantly respect those rights and freedoms in their mutual relations and will endeavor jointly and separately, including in cooperation with the United Nations, to promote universal and effective respect for them.

They confirm the right of the individual to know and act upon his rights and duties in this field.

In this field of human rights and fundamental freedoms, the participating States will act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights. They will also fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound.

PERSPECTIVES AND PRIORITIES

It is easier to obtain a consensus on the principle of the universality of human rights than to define by agreement which of those rights are of primary or secondary significance. Western thinkers, in general, have maintained that respect for the individual—protection of his civil, political, and religious liberties—is the best guarantee of a prosperous and equitable society. Communist theoreticians reverse the proposition to hold that only a state which assures its population a fair distribution of the wealth can also give its people freedom.

"If you are poor, you have no freedom, no happiness, your spirit is broken," a Radio Moscow announcer proclaimed in introducing a Soviet audience this summer to the protest songs of Johnny Cash, Joan Baez, Judy Collins and other American folk singers.² "[C]apital-

² Kevin Klose, "Soviets Denounce U.S. Neutron Project," The Washington Post, July 10, 1977.

ism itself is the society of exploitation and inequality, of unemployment and corruption, racism and amorality," wrote a Pravda editorialist earlier this year. "It is capitalism which tramples the most elementary rights and freedoms of man, including his sacred right to life itself."³

The debate is a serious and enduring one. In the poorest of the world's nations, it is also a practical one. There the argument is frequently heard that Western-style democracy is a luxury for the affluent, unrealistic for and unrelated to the immediate needs of men and women living on the edge of economic catastrophe. Development, say some Third World spokesmen, can only be speeded by *dictat*. Individual enterprise, goes the opposite theory, is the real catalyst of sound growth.

The discussion is not easy to resolve. Nor, in the context of this report, is its resolution necessary. Principle VII of the Final Act, in its title and text, establishes the clear ascendancy of the rights and freedoms Western democratic traditions have made paramount. The principle, noted one of the American CSCE negotiators:

Contains some of the most innovative concepts contained in the Declaration. . . . [It] expresses the Western concept that human rights are inherent in the human condition and not just privileges extended by a government when it suits national policy.⁴

In the round of speeches given at the Helsinki summit, only 11 of the 35 signatory spokesmen took more than passing note of Principle VII. Ten Western representatives did so to affirm the generally held European view of human rights as civil liberties. President Ceausescu of Romania was the only Communist statesman to address the subject, and his emphasis was heavy on the economic and social foundations of justice.

President Ford, however, dwelt on the issue at length, and his words can stand as a guide to the Commission's own approach to priorities in measuring the implementation of the Helsinki human rights standard.

These principles we have agreed upon are more than the lowest common denominator of governmental positions.

Mr. Ford said:

They affirm the most fundamental human rights: liberty of thoughts, conscience and faith; the exercise of civil and political rights; the rights of minorities.⁵

Noting the link between the affirmation in the American Declaration of Independence that—

All men are created equal and that they are endowed with inalienable rights to life, liberty and the pursuit of happiness,

The President added:

The founders of my country did not merely say that all Americans should have these rights, but all men everywhere should have these rights. . . . [I]t is important that you recognize the deep devotion of the American people and their Government to human rights and fundamental freedoms and thus to the pledges that this Conference has made regarding the freer movement of people, ideas and information.⁶

³ "What is Hidden Behind the Noise About 'Human Rights,'" Pravda, Feb. 12, 1977.

⁴ Harold S. Russell, "The Helsinki Declaration: Brobdingnag or Lilliput?," American Journal of International Law, vol. 70, April 1976, pp. 268-269.

⁵ Verbatim Record of the Fifth Meeting, held at Finlandia Hall, Helsinki, Friday, Aug. 1, 1975, CSCE/III/PV. 5, p. 8.

⁶ Ibid., p. 10.

PRINCIPLES IN CONFLICT

Despite President Ford's avowal of U.S. concern for human rights progress, the Warsaw Pact signatories have reacted with increasing indignation—of which surprise appears to be an element—to the expressions of that concern by President Carter, the Congress and the Commission. Several Eastern spokesmen have also sought to characterize such expressions as violations, in themselves, of the Final Act, specifically of Principle VI and its pledge that the signatories—will refrain from any intervention, direct or indirect, individual or collective, in the internal or external affairs falling within the domestic jurisdiction of another participating state . . .

The specific forms of intervention listed and barred by Principle VI are "armed intervention or threat of such intervention", "any other act of military or political, economic or other coercion" and "assistance to terrorist activities." That catalog is heavily skewed to protect "the rights inherent in sovereignty" against external force. Many Western signatories interpret it primarily as a pledge that foreign troops will not be used, as they were in Czechoslovakia in 1968, to subvert or overthrow existing political order.

Already at the Helsinki summit, however, there were indications that Eastern statesmen read a different meaning into the language. The "major" conclusion of the Conference, according to Soviet General Secretary Brezhnev—

is this: no one should try to dictate to other peoples on the basis of foreign policy considerations of one kind or another the manner in which they ought to manage their internal affairs. It is only the people of each given state and no one else, who have the sovereign right to resolve their internal affairs and establish their internal laws. A different approach would be perilous as a ground for international cooperation.⁷

The Soviet leader spoke at a morning session. That afternoon, Swedish Prime Minister Olof Palme voiced a distinctly contradictory opinion.

It is also our hope,
he said,

that agreements made at this conference will create a freer and more open exchange of views between representatives of public opinion in our countries as well as between our citizens. Respect for one another's social systems and the principle of nonintervention should not be given to mean that this exchange shall be restricted to assent and joint declarations. Frank criticism must also be allowed in the face of phenomena such as the oppression of dissidents, torture and racial discrimination.

[T]he process of détente should in my view offer increased possibilities for an open and free debate on fundamental political and ideological questions Thus we can also contribute to the establishment of a firm foundation for détente in the long perspective.⁸

What one group of signatories views as a free exchange of views including "frank criticism" does appear to another to be attempts "to dictate" domestic conduct. The clash is real and should be recognized.

Despite the conflict in understandings, however, the Commission believes with Premier Palme and others that inquiry into implementation of Principle VII is not interference under the terms of Principle

⁷ Verbatim Record, op. cit., July 31, 1975, CSCE/III/PV. 3, p. 17.

⁸ Ibid., PV. 4, p. 26.

VI. Inquiry is not motivated by any naive or subversive intent to undermine the authority or legitimacy of Warsaw Pact governments. Nor is it undertaken in expectation that discussions of human rights conduct can rapidly shape such behavior to fit Western standards in societies which have little traditional attachment to those standards.

"We could have sat quietly and never raised the issue of human rights," President Carter observed to a recent news conference. "I believe that our raising the issue was compatible with the hopes and dreams and inclinations and commitment of the American people."⁹

The issue is also a key element in the dialog of nations the Final Act set in action. "Respect for fundamental freedoms," said the Swiss head of state at the Helsinki signing ceremony, "will become a positive contribution to the Conference to the system of relations between states. . . . [R]espect for so solemnly approved a principle henceforth assumes, at the level of the European conscience, the same importance as that of the inviolability of frontiers."¹⁰

HUMAN RIGHTS IN THE SOVIET UNION

INTRODUCTION

Principle VII bases its promise of respect for civil, political and other rights on the premise that those liberties "derive from the inherent dignity of the human person and are essential for his free and full development." Soviet law, however, conditions the exercise of those rights on the benefit their exercise brings to the interests of society.

Reflecting the fundamental difference between Eastern and Western political thought on the status of the individual in relation to the state, both the existing and the proposed Soviet Constitutions hedge human rights guarantees with assertions of social obligations. As in the 1936 Constitution, the draft of a new basic law now under discussion in the U.S.S.R. provides, "citizens shall be guaranteed freedom of speech, press, assembly, meetings, street processions and demonstrations . . ." but requires that those liberties be exercised "in conformity with the interests of the working people and for the purpose of strengthening the socialist system."¹¹ The 1977 draft, moreover, adds a new limitation to the Stalin-era Constitution:

Article 59. The exercise of rights and freedoms shall be inseparable from the performance by citizens of their duties. Citizens shall be obliged to observe the Constitution of the U.S.S.R. and Soviet laws, to respect the rules of Socialist behavior and to carry with dignity the high calling of citizen of the U.S.S.R.¹²

The draft Soviet Constitution does take one new step toward general Helsinki compliance by incorporating as principles guiding U.S.S.R. foreign relations all 10 of the Final Act's Declaration of Principles. Article 29 of the draft lists the decalog of principles by title, though not in the exact order or wording in which they appear in the Final Act. In the case of Principle VII, the draft provides that

⁹ "President Carter's News Conference," *The New York Times*, July 13, 1977.

¹⁰ *Verbatim Record*, op. cit., July 30, 1975, CSCE/III/PV, 2, p. 30.

¹¹ "Excerpts from 173 Articles of Soviet Draft Constitution," *The New York Times*, June 5, 1977, p. 16.

¹² *Ibid.*

"relations . . . shall be built on the principle of . . . respect for human rights and other freedoms."¹³ It omits the words: "including the freedom of thought, conscience, religion or belief."

Constitutional language aside, the U.S.S.R. criminal code punishes two related kinds of activity in a manner which, to civil libertarians in the U.S.S.R. and abroad, violates Principle VII's pledge to "promote and encourage the effective exercise of civil, political . . . and other rights and freedoms." Articles 70 and 190-1 of the Criminal Code of the Russian Soviet Federative Socialist Republic are mirrored by similar provisions in other republican criminal codes.

Article 70 provides up to 7 years of imprisonment and up to 5 years of internal exile for—

agitation or propaganda carried on for the purpose of subverting or weakening the Soviet regime . . . or the circulation, for the same purpose, of slanderous fabrications which defame the Soviet state and social system, or the circulation or preparation or keeping, for the same purpose, of literature of such content.

Article 190-1 further provides up to 3 years imprisonment for—

systematic circulation in an oral form of fabrications known to be false which defame the Soviet state and social system and, likewise, the preparation or circulation in written, printed, or any other form of works of such content.¹⁴

These laws have been repeatedly used over the last decade to punish forms of free speech which Principle VII should protect. Unauthorized publication within the U.S.S.R. (*samizdat*) and outside it (*tamizdat*) has been treated in Soviet courtrooms as proof, in itself, of anti-Soviet agitation or propaganda even when the authors deny anti-Soviet motives.

Vladimir Bukovsky, for example, told the Commission:

I was arrested in 1971 and sentenced to seven years in prison and concentration camp and to five years' exile just because I had, openly, without making a secret of it, told the correspondents of the Associated Press and of CBS in Moscow what I had seen in prisons, camps and madhouses.¹⁵

Similar "offenses" brought somewhat lighter post-Helsinki sentences on biologist Sergei Kovalev (for involvement in circulation of the "Chronicle of the Lithuanian Catholic Church"); on physicist Andrei Tverdokhlebov, secretary of the Soviet branch of Amnesty International (for writing the Nobel Prize committee in support of Aleksandr Solzhenitsyn and for circulating articles by Andrei Sakharov); on journalist Vladimir Osipov (for editing the Russian nationalist magazine, *Veche*); and on Crimean Tatar spokesman Mustafa Dzhemilev (for preparing "anti-Soviet slanders in his jail cell.")

Convictions under Articles 70 and 190-1 are the chief form of legal punishment of political dissent in the Soviet Union. Since the beginning of such prosecutions with the 1965 trial of writers Andrei Sinyavsky and Yuli Daniel, there has been no instance of an acquittal,¹⁶ and many cases where the issue of what is or is not "anti-Soviet" in purpose or content was apparently decided (against the defendant) before the case even went to court.

As administered, the laws themselves represent a systemic and systematic violation of Principle VII. Instead of reconsidering and

¹³ *Ibid.*

¹⁴ Telford Taylor, "Courts of Terror"; Alfred A. Knopf (New York, 1976) pp. 72 and 75.

¹⁵ CSCE Hearings, Basket III, vol. I, p. 22.

¹⁶ CSCE Hearings, Basket III, vol. IV, p. 6.

relaxing them, however, Soviet prosecutors have applied them on an expanded scale in 1977.

THE HELSINKI WATCHERS

The first Soviet citizens to be sentenced this year for exercising the rights which Principle VII guarantees, were two Ukrainian human rights activists, Mykola Rudenko and Oleksei Tykhy, founders of the Ukrainian Group to Promote Observance of the Helsinki Accord in the U.S.S.R. A writer and a schoolteacher, Rudenko and Tykhy both received maximum sentences—12 and 15 years loss of freedom, respectively—from a court sitting in a factory in a small Ukrainian village, far from the towns where the men were arrested February 7.

Their case was heard not in the open court which Soviet law prescribes, but in a nearly secret proceeding in a workers' club room from which even their closest relatives were barred for the first 6 days of the trial. They were pronounced guilty under Article 62 of the Ukrainian criminal code, the same law as Article 70 of the RSFSR code.

Their treatment is significant, however, not just for the severity of the sentences or the secrecy of the proceedings, and not merely as a test of Soviet observance of Principle VII. On trial with them, in effect, were seven other members of the unofficial body of Soviet Helsinki watchers also arrested this year and still awaiting trial. Their cases, reported the Moscow correspondent of the Washington Post—were being watched . . . for signs of how Moscow intends to deal with its human rights activists as the formal Belgrade conference to review the Helsinki accord approaches.¹⁷

The signs, measured in terms of the conduct the Final Act projects, are foreboding. For the other imprisoned Group to Promote members—Prof. Yuri Orlov, Aleksandr Ginzburg, and Anatoly Shcharansky arrested in Moscow; Zviad Gamsakhurdia and Merab Kostava seized in Georgia; and Myroslav Marynovych and Mykola Matusevych detained in Ukraine—the sentences of their colleagues constitute alarming indications of what they may face.

Their fate should be of utmost concern to the Commission and should be a matter for all Final Act signatories to weigh during the Belgrade review discussions. For, according to the extensive testimony compiled by the Commission, the Groups to Promote Observance of the Helsinki Accord in the U.S.S.R. were doing neither more nor less than acting on the Principle VII mandate "confirm[ing] the right of the individual to know and act upon his rights and duties in this [human rights] field." It is clearly contrary to the Final Act to penalize such behavior.

Reports of the Helsinki watch

The Groups to Promote constitute, in themselves, a significant, positive response to the Final Act. Their goal, since Professor Orlov and 10 others established the Moscow Group on May 12, 1976, has been, in the words of their first appeal, to—

encourage the Soviet government to fulfill its moral obligations assumed in conformity with the [humanitarian] provisions [of the Final Act.] We urge

¹⁷ Kevin Klöse, "2 Rights Activists in Ukraine Receive Lengthy Jail Terms," The Washington Post, July 2, 1977, p. A10.

the public in other countries to follow our example, since we do not assume that violations of the Helsinki accord can occur only in the Soviet Union.¹⁸

Following the Moscow Group's creation, similar bodies were formed in the Ukraine—with 10 members—and Lithuania—with 5—in November 1976, as well as in Georgia and Armenia. Reports, declarations and appeals generated by the first three groups have made their way, as their authors sought, to the West throughout 1976 and 1977. The Commission has published two English-language compilations of "Reports of the Helsinki-Accord Monitors in the Soviet Union" on February 24, 1977, and June 3, 1977, and has included other Group to promote material in the printed record of its June 3, 1977, hearing: "Soviet Helsinki Watch, Reports on Repression."

The material—including much that had to be summarized instead of translated—is copious and detailed. This report cannot present it all, even in digest form. The groups themselves sent copies of their first six reports by registered mail to the embassies of the signatories to Moscow. According to Lyudmila Alekseeva, one of the founding members of the Moscow group, however, that practice ended after the first reports—judging by the addressees' failure to acknowledge receipt—went undelivered.¹⁹

The Moscow group's documents, Mrs. Alekseeva testified, were based primarily on information—

received from sources outside of the Group itself. . . . Their topics were dictated not by the members' personal tastes, but by the materials which we received. We simply organized these materials and checked the reliability of the information presented.²⁰

Those topics covered problems of emigration (seven numbered documents), conditions of political prisoners (five documents), acts of repression against political dissent (five documents), instances of religious persecution (four documents), violations of minority rights (four documents), and cases of psychiatric confinement and abusive treatment of dissenters (two documents). Other material included analytical discussions of general Helsinki compliance problems in the U.S.S.R., specific appeals for named individuals in prison or under threat of arrest, and—in a few cases—lengthy passionate declarations of fidelity to the cause of human rights or Ukrainian patriotism.

The value of such documentation to the Helsinki process lies in its organization of facts presented by first-hand witnesses about the application of Principle VII and the provisions of Basket III to the conduct of Soviet officials. Prosecutors and judges in the U.S.S.R. may view the compilation and distribution of such reports—all of which the authors sent to top Soviet authorities—as proscribed anti-Soviet agitation and propaganda. The groups' members, however, viewed their activity as "completely legal, in form and substance," Mrs. Alekseeva testified.²¹

"All Helsinki Group members," she told the Commission, "are participants in the human rights movement which is essentially a moral, not a political movement. Human rights activists are persons with dif-

¹⁸ "Reports of Helsinki-Accord Monitors in the Soviet Union," partial compilation edited and prepared in English by the staff of the Commission on Security and Cooperation, vol. I, Feb. 24, 1977, p. 4. (Hereafter cited as "Helsinki Monitors" Reports, vol. I, dated Feb. 24, 1977, and vol. II dated June 3, 1977.)

¹⁹ CSCE Hearings, Basket III, vol. IV, p. 36.

²⁰ *Ibid.*, pp. 31 and 32.

²¹ *Ibid.*, p. 30.

fering political views, ranging from socialists to monarchists, but they all share the belief that society can only develop through the effective exercise of elementary human and civil rights. They all renounce violent methods of struggle as a matter of principle, and they condemn such methods. . . . [Our] name was chosen to underline our members' loyalty to the government and the members' desire to work together with the authorities toward conscientious fulfillment of the human rights obligations undertaken at Helsinki."²²

Official reaction to the Groups, however, has been repressive from the start. Surveillance, mail and telephone interception, interrogations, searches and physical threats dogged the members through 1976 until the actual arrests began in February 1977. Nevertheless, the Groups have persevered and gained new public adherents to replace—at least partially—those who have been imprisoned, exiled or pressured to emigrate.

"The Groups are enduring, replenishing," their Moscow members declared at the end of June.²³ Even if their activity has drawn severe official reprisals, their contribution to the record of Final Act implementation in the U.S.S.R. has been of great consequence.

As the Moscow group observed in its "Pre-Belgrade Summary" report of June 1, 1977:

It would have been naive to expect and unrealistic to demand that the situation [in respect to human rights] change the day after the Final Act was signed. But it was possible and proper to expect that the situation would improve, albeit gradually and slowly. The Soviet government could have at least displayed some intention to improve the human rights situation. . . . Nonetheless this did not occur.²⁴

On the contrary, for the Helsinki watchers themselves and for their private initiative to promote Final Act observance, the situation has not improved but worsened. Such a development while consistent with past Soviet practice, runs contrary to the direction of change the Final Act mandates.

POLITICAL PRISONERS

In the 24 months since the Final Act was signed, Soviet authorities have acted to alleviate the conditions of a few well-known political prisoners being held in Soviet jails and labor camps. Leonid Plyushch, Vladimir Bukovsky, and Mikhail Shtern were all released before their sentences expired and were permitted to leave the U.S.S.R. for new homes in the West. Sergei Kovalev, though still serving his 7-year term in a strict regime camp in the Urals, was transferred to a Leningrad hospital in March 1977, for an operation he and his family had described as urgent.

Against the humanitarian actions taken in these four instances—cases which had evoked widespread public and political concern in the West—must be set the harsh treatment meted out to hundreds of other current and former political prisoners in the Soviet Union. The Commission's concern in drawing that balance is not with the numbers of such prisoners, but with the evidence that, contrary to article 7, part III, of the International Covenant on Civil and Political Rights, ratified by the Soviet Union, some of them are being subjected "to

²² Ibid.

²³ Congressional Record, July 15, 1977, p. H7240.

²⁴ CSCE Hearings, Basket III, vol. IV, p. 40.

cruel, inhuman or degrading treatment" because of the nature of their offenses.

Estimates of the total number of Soviet political prisoners vary widely. Andrei Sakharov believes there to be "anywhere from 2,000 to 10,000."²⁵ The day before his arrest on February 3, 1977, Group to Promote member Aleksandr Ginzburg held a Moscow press conference to announce that the Solzhenitsyn fund he had directed had been able to aid 720 such prisoners and their families in 1975 and 630 in 1976. He told reporters the numbers had declined both because of the release of some prisoners and because of "growing security police pressure on some families to refuse help."²⁶

In its report, "Prisoners of Conscience in the U.S.S.R. Their Treatment and Conditions" (1975) Amnesty International states that there are up to 10,000 political and religious prisoners. It has listed 244 Soviet political prisoners either awaiting trial or recently sentenced to jail or exile; its Austrian section, moreover, has determined that 90 of those convicted for political offenses were tried and sentenced after the Helsinki accord was signed.²⁷ In its first memorandum the Ukrainian Group to Promote listed the names and addresses of 51 Ukrainian political prisoners and 7 such internal exiles; in its Document 17 the Moscow Group cited 44 prisoners (including Shtern and Kovalev) and 5 exiles "as individuals whose poor state of health justifies their early release."²⁸

The evidence compiled by the Commission, indicates that political offenses are punished more harshly in the Soviet Union than other criminal actions, not necessarily by longer prison terms, but by more restrictive conditions in and even after confinement.

"The Soviet system of corrective-labor reeducation for political prisoners," testified Vladimir Bukovsky, who has spent 11 of his 34 years in prisons and camps, "constitutes a monstrous crime, relying on punishment by hunger, solitary confinement, deprivation of medical help, and all this is done with the aim of forcibly changing religious, political and national convictions."²⁹

Hunger

Political offenders "are usually sent" to strict-regime prisons and camps.³⁰ Dietary standards there, according to the reports of the Moscow group, have dropped in the last 7 years and "lead to real torture by hunger."³¹ Since November 1972, the "right to send food parcels to prisoners" has ended.³² And even before trial, a political prisoner can be arbitrarily denied food brought by relatives, as Aleksandr Ginzburg was in April of this year.³³

Solitary confinement

Perhaps because such prisoners are by nature more rebellious than others, Soviet prison officials appear to impose punishment by isola-

²⁵ Andrei D. Sakharov, "My Country and the World", New York: Vintage Books, 1975) p. 31.

²⁶ "Solzhenitsyn Fund for Soviet Prisoners is Disclosed," The New York Times, Feb. 3, 1977.

²⁷ Joseph G. Whelan, "Human Rights in Soviet-American Relations," Congressional Research Service, June 10, 1977, p. 17.

²⁸ Helsinki Monitors Reports, op. cit., vol. I, pp. 109-114, 35-36.

²⁹ CSCE Hearings, Basket III, vol. I, p. 23.

³⁰ Valery Chalidze, "To Defend These Rights" (New York: Random House, 1974) p. 136.

³¹ Helsinki Monitors Reports, op. cit., vol. I, p. 17.

³² CSCE Hearings, Basket III, vol. IV, p. 53.

³³ Ibid., p. 27.

tion on political offenders remarkably often. Vladimir Prison, north of Moscow and a place of confinement for many dissenters, may only be the best-documented of such institutions. In it, the Moscow Group to Promote has reported, Ukrainian dissenter Aleksandr Sergienko served 50 days in isolation cells—on four different occasions—from May 1975, to April 1976, for complaining about prison conditions.³⁴ In roughly the same period, at least 25 Vladimir political prisoners were similarly punished, 8 of them in a 3-month period from March to May 1976 and some for 25–45 days.³⁵

Medical care

Of the prominent human rights activists jailed in the U.S.S.R. in the last decade, only two are known to have died in confinement: Buddhist leader Bidya Dandaron, who died at the age of 60 on October 26, 1974, and poet Yuri Galanskov, who died November 4, 1972, after an operation for perforated ulcers.³⁶ Considering what others undergo and survive, outsiders must conclude that Soviet dissenters are made of exceptionally stern psychic and physical stuff.

Aleksandr Sergienko, for example, suffers from tuberculosis, has contracted pleurisy and bronchitis, but has lived through repeated spells of solitary confinement and punishment diets. Despite a history of cardio-vascular ailments, Yakov Suslensky has often been put in isolation cells, was left there once through a heart attack and suffered a stroke after being released from a spell of such confinement in March 1976. Michael Dyak, freed 3 years after prison doctors diagnosed him as suffering from lymphogranulomatosis—but only after he acknowledged his guilt and sought a pardon—did die a year after his release from prison.³⁷

After release

Finally, a political offender who serves his term but refuses to repent and ask that his crime be pardoned, can look forward to a life of continuing restrictions on his civil rights. Residence in major cities is barred to such persons, even if the cities were their former homes. Lithuanians who returned from prison camp sentences begun under Stalin must live outside the borders of Lithuania. As described in Document No. 6 of the Helsinki watchers, terms of probation—requiring frequent appearances at militia stations, imposing curfews and barring former prisoners from such public places as restaurants and cafes—can be humiliating. Violating them earned writer Anatoly Marchenko—who committed the violation purposely to protest authorities' refusal to let him emigrate to the United States—a new, 4½-year term of Siberian exile.³⁸

EXTRAJUDICIAL REPRESSION

Political offenders in prison are not the only measure of a society's respect for Principle VII; and indeed, even the Ukrainian Helsinki watchers were willing to admit in 1976 (before four of them were jailed) that "there are fewer politically motivated arrests than in

³⁴ Helsinki Monitors Report, op. cit. vol. I, pp. 32–33.

³⁵ *Ibid.*, pp. 17–18.

³⁶ "A Chronicle of Human Rights in the U.S.S.R." (New York: Khronika Press, 1973) No. 11–12, p. 52; No. 1, p. 5.

³⁷ Helsinki Monitors Reports, op. cit., vol. I, pp. 17, 32–34.

³⁸ *Ibid.*, pp. 21–26; CSCB Hearings, Basket III, vol. I, pp. 55–56.

1972." To that faint praise, however, they joined the observation: "all those considered 'unreliable' lose their professional positions."³⁹

Indeed, evidence compiled by the Commission indicates that many citizens of the Soviet Union active in the "effective exercise of civil [and] political . . . rights" protected by Principle VII can and do have their careers and status profoundly jeopardized for "thinking differently" than Soviet authorities would have them think.

The word "dissident" exists in Russian only as a transliteration from English. A dissenter or nonconformist, in the Russian language, is "one who thinks differently." And though Soviet law—say those who execute it—penalizes criminals only for their acts, not their thoughts,⁴⁰ Soviet police practice against the "different thinkers" is and has long been repressive to a high degree. Three cases of such repression—unconnected, and touching totally dissimilar individuals—serve to illustrate post-Helsinki conduct.

The Lithuanian School Boys

When Vitautas Bogushes and six of his classmates returned to Venuolis High School in Vilnius, Lithuania, after the 1976 summer holidays, they learned for the first time that they had been expelled from its senior class the previous June. The teachers' council, they were told, had voted them out "for conduct unbecoming Soviet schoolchildren,"⁴¹ but neither the boys, the parents nor interested friends were ever able to see the minutes of that council or unearth a detailed official explanation for the action.

It is best to let the Lithuanian and Moscow Helsinki groups explain the incident in the words of their special report of December 8, 1976:

There are grounds to believe that this expulsion was conducted by order of the KGB. . . .

During the last academic year, these students were called in by the militia and the KGB, where they were asked almost exactly the same questions: Did they attend Catholic church services? Did they listen to radio broadcasts of the "Vatican" station? Why did the boys visit Viktoras Petkus? [Petkus is well known Lithuanian social and Catholic activist who has spent 14 years in camps and prisons for political offenses. Now he is one of the members and founders of the Lithuanian Public Group to Promote Observance of the Helsinki Accords]. They got the boys to "admit" that Petkus served them wine and gave them cigarettes when they were his guests, gave them money and "typewritten literature" (the implication here is *samizdat*—ed.) and they even informed them that Petkus is a homosexual.

In the militia station, Captain Semenov shouted at the boys, embroidering his speech with swear words. In the KGB, Senior Lieutenant Berbitskas was polite. Both men threatened that if the boys did not confirm the slander about Petkus, then they would not be allowed to attend institutes, and they even frightened Bogushes with talk of sending him to a children's penal colony. It was precisely because of the boys' refusal to give false testimony that they were expelled from school.

Repression is not ceasing. In the middle of November, Yulis Sasnauskas was taken to the regional division of the militia, where he was beaten by the Inspector for Criminal Investigation and by Major Matsyulevich. And the other boys are also not left in peace.

All this is an evident violation of elementary human rights, which is especially galling since it involves people who are still almost children.⁴²

Since that was written, six of the boys have managed to enroll in other schools, but Vitautas Bogushes—whose real offense may have been his church attendance and the portrait of Aleksandr Solzhenitsyn

³⁹ Helsinki Monitors Reports, op. cit., vol. I, p. 116.

⁴⁰ CSCE Study Mission Report, pp. 34-35.

⁴¹ Helsinki Monitors Reports, op. cit., vol. II, Doc. 15, p. 33.

⁴² *Ibid.*

which he hung in his room—is still barred from higher education and from the careers a degree might open to him.⁴³

Simis and Kaminskaya: Two Moscow lawyers

Another Group to Promote statement of December 2, 1976, tells—in part—the story of two distinguished Moscow attorneys:

On the 16th of November the procurator's office of the city of Moscow (investigator Tikhonov) arranged a search of the apartment and dacha of K. M. Simis and D. I. Kaminskaya. The search warrant was issued on suspicion of the possession of anti-Soviet literature. Among the items confiscated were foreign editions of Russian and Soviet poets (Tsvetayeva, Mandelstam, Pasternak, Akhmatova), personal papers, telephone books, typewriters, and cameras.

Konstantin M. Simis is a well-known Soviet international lawyer. His wife, Dina I. Kaminskaya, a defense attorney, has at various times had among her clients, such well-known fighters for civil rights in the U.S.S.R. as Yuri Galanskov, Vladimir Bukovsky, Ilya Gabai, Anatoly Marchenko, and Pavel Litvinov. After several uncompromising trial speeches (her speeches for the defense were published in the collections *Pushkin Square*, *The Trial of the Four*, *Noon at Red Square* and *The Case of Dzhemilev and Gabai*), she was deprived of the opportunity to participate as a defense attorney in political trials. She was not allowed, in particular, at the trials of Sergei Kovalev and Andrei Tverdokhlebov, although defendants and their relatives insisted on this. But even in this situation D. I. Kaminskaya did not refuse legal assistance to people persecuted because of political motives. Just several days before the November 16th search, she accepted the defense of Boris Chernobytsky, a participant in a demonstration for the right to emigrate to Israel, falsely charged with malicious hoodliganism.⁴⁴

Since that was written, Simis—whose confiscated “personal papers” included the manuscript of a book he was writing—has been fired from the legal research institute where he worked and stripped of the academic degrees he earned. His wife, too, has been dismissed from the criminal bar, a step taken after she agreed to try and act as defense counsel for arrested Group to Promote member Anatoly Shcharansky, provisionally charged with treasonous conduct.

Both lawyers have been repeatedly interrogated by the KGB, and legal proceedings have begun to evict them from their apartment. Formally, Simis has been advised that he is under investigation in connection with article 190-1 (anti-Soviet agitation and propaganda),⁴⁵ but the treatment the couple has already received can only be linked to what they thought and said to their friends, not to any deeds of theirs beyond putting pen to paper.

The ambulance attendant

Aleksandr Podrabinek is a 23-year-old medical attendant who worked as a sort of paramedic on ambulances in the Moscow public health system. In a statement received by the Commission, he describes the penalty his extracurricular interest in Soviet psychiatry has begun to exact:

On March 14, 1977, members of the KGB carried out a search of the apartment of Elena Bobrovich, where I myself lived at the time.

In the search, they removed documents and also the manuscript of the book “Punitive Medicine” and other materials.

The practice of forcible detention of those who hold differing opinions in psychiatric hospitals has been unprecedentedly on the increase. An urgent neces-

⁴³ Commission staff conversations with Public Group members Tomas Venclova and Lyudmila Alekseeva, authors of Doc. 15.

⁴⁴ Helsinki Monitors Reports, op. cit., vol. II, p. 68.

⁴⁵ “The Vigil,” newsletter of the Washington Committee for Soviet Jewry, No. 36, July 1977, p. 1.

sity arose to gather materials on the application of repressive psychiatry. I devoted the last three years to this work and as a result produced the manuscript, "Punitive Medicine." The work was an attempt to reflect the judicial, medical, sociological, historical, and various other aspects of the problem. Then, just as the manuscript was ready and a final copy made, it was confiscated by the KGB, which had, apparently, long followed the work. Along with the manuscript, a personal card index of more than 200 names of political prisoners from special psychiatric hospitals, their photographs, recollections, statements, documents, printed stationery of the Commission, and Elena Bobrovich's typewriter was taken.

The methods used by the KGB in this search would remind older people of the Stalin Terror. The search began at midnight and continued for 5½ hours. The police agents of the KGB followed me in groups of five, never leaving me for a moment; they threatened arrest and physical violence. My friends received anonymous threatening telephone calls, demanding that they stop having friendly contacts with me.

However, the atmosphere of organized persecution directed against the work of the Committee for the Investigation of the Abuse of Psychiatry for Political Purposes, against my activities in it, and my personal speeches in defense against psychiatric terror, testify to the moral weakness and impotence of the KGB before free speech that has not been subjected to the cancer of governmental censorship.⁴⁶

Podrabinek has told Western correspondents in the Soviet capital that KGB interrogators—in the course of two 8-hour sessions of questioning on his ties to Yuri Orlov, founder of the Public Group—"assured me that I will be charged" under article 190-1. As an alternative they promised him, he said, that if he would cooperate in their investigation of the Public Group's Working Committee To Investigate the Abuse of Psychiatry for Political Purposes, of which he is a founding member, no charges would be pressed, and he would be allowed—like others who think differently—to emigrate.

Podrabinek has not applied to emigrate. "I just wish," he is quoted as saying, "the KGB would emigrate."⁴⁷

PSYCHIATRY AS REPRESSION

Aleksandr Podrabinek is only the latest in a long list of Soviet citizens to inquire into the uses of psychiatric confinement as a form of punishment for civil and religious dissent. Among the noted victims of that practice whose experiences have been described in great detail to Western audiences, are geneticist Zhorés Medvedev, Gen. Petr Grigorenko, poet Natalya Gorbanevskaya, Vladimir Bukovsky, Leonid Plyushch, Viktor Fainberg, and mathematician Aleksandr Yesenin-Volpin.

Miss Gorbanevskaya was arrested on August 25, 1968, in Moscow's Red Square where she and six others had gathered to try to demonstrate their protest against the Soviet invasion of Czechoslovakia. She spent a year in psychiatric detention for a form of schizophrenia which had been diagnosed as "having no symptoms," she told Commission members who met her in Paris in November, 1976. She was released only after admitting, under pressure, that she "probably should not have engaged in these activities."⁴⁸

The use of insane asylums to punish nonconformists whose only deviant behavior is in their pursuit of Principle VII's "freedom of

⁴⁶ Helsinki Monitors Reports, op. cit., vol. II, p. 68.

⁴⁷ Kevin Kloze, "Soviet Rights Activist Vows to Defy KGB," The Washington Post, July 19, 1977, p. A10.

⁴⁸ Ludmilla Thorne, "Inside Russia's Psychiatric Jails," The New York Times Sunday magazine, June 12, 1977, p. 26 et seq.

thought, conscience, religion or belief" is a blatant violation of the Final Act.

The protests of Western psychiatrists, psychiatric associations and laymen against this practice have, however, had some effect. To those protests over the years can be attributed the releases of such men as Medvedev, Bukovsky, Plyushch, and Fainberg and, in March 1977, of Vladimir Borisov, detained on December 25, 1976.

In conversations with the Commission staff before his formal testimony April 27, 1977, Evgeny Bresenden, a spokesman for the Pentecostal sect in the U.S.S.R., advanced the view that psychiatric detention—because of Western outcries—had somewhat declined as a form of repression against well-known dissenters in major cities. It continues to be frequently used, he charged in his formal testimony, in small or isolated towns against religious believers.⁴⁹

The Commission lacks the evidence to determine whether the practice is on the decline or the rise. That judgment is unnecessary in the face of a record which shows psychiatric detention and forced treatment to be a continuing form of reprisal against Soviet human rights activists.

Since the Final Act was signed, for instance:

Composer Petr Starchik was held 2 months in an insane asylum outside Moscow for compulsory treatment of his anti-Soviet behavior—the songs he wrote and sang for groups of friends.

An Orthodox priest, Eduard Fedotov, was hospitalized in Moscow for protesting the previous detention of an Orthodox layman, Aleksandr Argentov.

Nadezhda Gaidar came to Moscow from her home in Kiev to make a complaint to officials of the Communist Party Central Committee; she was hospitalized in the capital in the care of a psychiatric doctor who was told: "She is suffering from nervous exhaustion due to her search for justice."

Alisa Ostrakhova, from the city of Kirovsk, was threatened with psychiatric detention when she returned from a trip she had taken to Moscow to complain about her "unjustified dismissal from work."⁵⁰

Amnesty International, which had reported in November, 1975, "a significant decline" of political abuse of psychiatry in the U.S.S.R., revised its view in April 1977, with the finding that the practice "is continuing at a disturbing rate."⁵¹ The Amnesty report detailed the cases of Starchik, Argentov, and Borisov, all released, and of three other men still confined.

The history of Anatoly Ponomarev, as described by Amnesty, can serve as a paradigm of the treatment accorded others, many of them unknown. A Leningrad engineer, he was first arrested in October 1970, on charges of violating article 190-1 by writing satirical verses and retyping a letter originally written to the Union of Soviet Writers by Aleksandr Solzhenitsyn. He was sentenced in January 1971, to compulsory psychiatric treatment.

⁴⁹ CSCE Hearings, Basket III, vol. II, April 27, 1977, p. 23.

⁵⁰ Helsinki Monitors Reports, op. cit., vol. I, pp. 28-29.

⁵¹ "Compulsory Confinement in Psychiatric Hospitals for Political Reasons in the USSR: A Dossier of Cases," Amnesty International, London, April 1977, p. 1.

Released after an unknown time, he was rearrested in April 1974, and put in a ward for violent inmates of the Skvortsov-Stepanov Hospital in Leningrad for 2 months to keep him out of circulation during the city's May Day celebrations. He was recommitted from September 1974 to July 1975, in the same hospital, though a doctor there told his mother, "You know that he is held here not because he is ill, but because of his behavior."

After protesting his treatment in several open letters, Ponomarev was again confined to the violent inmates' ward of the Leningrad clinic on October 20, 1975. A doctor there told Mikhail Bernshtam, a founding member of the Public Group, that the protest letters were the cause of Ponomarev's detention.

They are the letters of an ill man,

Dr. Lyudmila Fedoseyeva is quoted as saying, after admitting that she had not read them.

- They aren't anti-Soviet, but in them he expresses a low opinion of the Soviet government and in general writes cynically about our leaders . . . KGB officials . . . make a political judgment and phone us, advising us to intern Ponomarev. For us to make a medical diagnosis, it's enough to know simply of the existence of anti-government letters; there's no need to read them.⁵²

RELIGIOUS LIBERTY

Aleksandr Voloshchuk links three strands of human rights problems in one personal history. A member of the Baptist faith from the city of Gorky, he decided that religious persecution in the U.S.S.R. compelled him to seek permission to emigrate with his wife, a teacher and non-believer, and their three children. When he came with them to Moscow to press his appeal, he was arrested in the offices of the Supreme Soviet (the U.S.S.R. Parliament) on March 21, 1977, and taken, bound and gagged, to Moscow Mental Hospital No. 14, where he was diagnosed as suffering "schizophrenia with religious delusions." His wife launched a public campaign on his behalf with the help of 45 other Baptists in Moscow and the Working Committee on Psychiatric Abuse. In May, he was released from the hospital.⁵³

Aleksandr Voloshchuk's situation is typical of many other Soviet believers. In deciding to emigrate for diverse religious reasons, he joins the ranks of many others—Baptists and Pentecostals, primarily—who have also made that choice. (The Commission, in the separate supplement to this report, lists the names of 225 families of Soviet believers seeking to emigrate within its larger listing of human contacts cases of which it is aware in the Soviet Union and Eastern Europe.)

In his experience of psychiatric incarceration, he shares the fate of 80 Ukrainian Pentecostals put in Donetsk insane asylums in 1959, of the Orthodox priest Fedotov and layman Argentov (mentioned above), of Yuri Belov, a Catholic, confined to a hospital since 1972, and of Pentecostalist Petr Vashchenko who was first put under psychiatric care in 1968 because he applied to emigrate. "Normal people," a doctor told him, "don't apply to emigrate."⁵⁴

⁵² Ibid., pp. 15-17.

⁵³ "Soviet Said To Jail Baptist and Rights Advocate," The New York Times, Apr. 5, 1977; News Bulletin on Psychiatric Abuse in the Soviet Union, published by The Working Group on the Internment of Dissenters in Mental Hospitals, 3 Ashness Road, London SW 11, United Kingdom, No. 1, June 1977, p. 13.

⁵⁴ CSCE Hearings, Basket III, vol. II, p. 23.

The Commission does not know what specific manifestations of religious persecution drove Alekandr Voloshchuk to his encounter with Soviet psychiatry. He had not, for instance, experienced the calamity other devout Soviet citizens have met: court-ordered separation from their children, imposed to prevent the parents from educating their offspring in religious faith. Shortly after the Final Act was signed, however, another Baptist—Maria Suprunovich of the village of Starava Vizha in the Volinsk district of the Ukraine—lost a legal battle to keep her children and bring them up as Baptists, only to win a stay of the sentence by her vigorous campaign of public protest to Soviet authorities.⁵⁵

Seventh-day Adventist Maria Vlasjuk, also a Ukrainian, similarly lost a 1975 legal battle to keep her son and daughter because, an appeals court ruled—

as a member of a religious sect which is not registered in the manner prescribed by law... [she] physically exhausts her [daughter] in fasts and religious rites [and] exists a harmful influence on her . . . it is dangerous for the children to remain under the care of their mother.

When police came to her home to enforce the decision, however, the mother and a band of neighbors drove them away, and, at last report, the Vlasjuk family was still together.⁵⁶

That experience—of a court decision proclaimed but not enforced or of court action threatened—has also been the lot of 7 other Baptist and 16 Adventist families whose cases the Public Group reported in June 1976.⁵⁷ Testifying to the Commission a year later, Public Group member Lyudmila Alekseeva noted that the most recent such court decision of which she knew had been announced February 14, 1977, in the city of Ryazan:

Since the adoption of the Helsinki accord there have been court decisions depriving parents of parental rights. But despite these decisions, the authorities have often left the children with their parents. This is a precarious situation; the child could be taken away at any moment.⁵⁸

Attempts to come between children and their religious parents do not have to be as formal as court rulings, however. Testimony from Soviet Pentecostals received by the Commission suggests they are—for some believers—almost routine occurrences.

Andrei Kovalenko, a 44-year-old Pentecostalist in the village of Karer in the northern Caucasus recorded two such episodes in August 1976. In the first, Yuri Aleksandrovich Kuznetsov, the chairman of the village council, and a policeman interrupted hymn-playing children in the yard in front of the home of a believer right after the funeral service for his mother. The officials forbade the music and noted the names of the singers. Two weeks later, the village leader came to an *authorized* church service again to record the names of all the children present and their parents.

Kovalenko's wife asked the official:

What would be better from your point of view, if my children lost their faith and became drunkards lying in the street, or if they, as believers, conducted themselves politely?

Answered Kuznetsov:

⁵⁵ Helsinki Monitors Reports, op. cit., vol. I, p. 38.

⁵⁶ Ibid., pp. 39–44.

⁵⁷ Ibid., p. 5.

⁵⁸ CSCE Hearings, Basket III, vol. IV, p. 47.

We prefer them to be drunkards rather than believers. . . . We have an order that children under 18 are not to attend your meetings.⁶⁰

As appendix A to this report notes, the situation of believers in the U.S.S.R. varies according to the official recognition bestowed on or denied to their churches or specific congregations. Some restrictions—including the requirement that congregations be registered; the ban on proselytization and on religious education of children—are universal but enforced with varying degrees of ardor.

Nevertheless, the laws exist and, as Peter Reddaway—a noted English scholar of Soviet religious affairs—observed in testimony to the Commission:

The Soviets published the first thoroughgoing revision of their laws on religion—the first since 1929—in 1975, on the eve of the Helsinki Conference. The purpose was apparently to get the full repressiveness of the laws firmly on record before new and stronger pressures to liberalize them could be developed on the basis of the Final Act.⁶⁰

Reddaway testified that the new regulations are “notably harsher than those of 1929,” but even under the old laws “well over 1,000” unregistered Baptists have been imprisoned over the last 16 years as a direct result of their religious activities.⁶¹ Moreover, it is worth noting that many believers are arrested and imprisoned under articles 70 and 190-1 rather than for violation of the statutes on religious behavior. Thus, the Lithuanian Catholic, Nijole Sadunaite, is serving 3 years in prison camp to be followed by 3 years in exile for circulating the underground “Chronicle of the Lithuanian Catholic Church,” an action judged anti-Soviet.

Rev. Georgi Vins, a 49-year-old pastor of the unofficial (unregistered) Baptist Church, is undergoing a similar experience. His father died in a labor camp in 1943; his mother served 2 years in another camp in the 1970's; and Reverend Vins himself, an active leader in the 1961 schism between Baptist reformers and the church which Soviet authorities have sanctioned, had already served 3 years in a camp and another year at forced labor before he was arrested in Kiev in March 1974.

The charges against him combined “slanders” against the state with violations of the prohibition against religious instruction of minors. The sentence he received 11 months after his arrest imposed 5 years in camp and 5 more in exile.

His family visited him in camp this February and found him gravely ill. A month later, he wrote them of a fresh attack of high blood pressure, partial paralysis and facial swelling. As the 95th Congress adopted a resolution urging Soviet authorities to release him on humanitarian grounds, the Commission has no hesitation in repeating that call and in regarding his continued detention as a demonstrative violation of Principle VII.

Finally, even members of officially sanctioned religious bodies enjoy no immunity from repression. Rev. Vasily Romanyuk, for 8 years a popular and effective priest of the Orthodox Church in Ukraine, was sentenced in July 1972, to a term that is to include 2 years in prison, 5 years in a strict regime camp and 3 years of internal exile. The charge that brought him those penalties was that he had slandered

⁶⁰ CSCE Hearings, Basket III, vol. II, p. 271.

⁶¹ *Ibid.*, p. 4.

⁶² *Ibid.*, p. 5.

Soviet society. In a letter to the World Council of Churches in 1976, however, Reverend Romanyuk said the real motivation for his arrest—consists merely in the fact that I, a priest and a dissenter, was bold enough to speak out in defense of the Ukrainian historian, Valentin Moroz, when he was repressed without cause.⁶²

In confinement—despite the absence of regulations forbidding religious literature to inmates—the priest has been denied Bibles which friends and even strangers—including a member of this Commission—have sent him.

Such is the Soviet regime,
he wrote.

They feel they have the right to commit any kind of illegal act against a person, but that an individual has no right to expose the crimes they commit against him. . . . [A] normal person cannot accept this. I consider it my duty as a priest and believer to express my opinions.⁶³

MINORITY RIGHTS

The connection between the imprisonment of Reverend Romanyuk and of Valentin Moroz, the Ukrainian writer in whose defense he spoke, is symptomatic of another human rights issue in Soviet life: the repression of national sentiment whether it takes a political or religious form, or, as often happens, both.

Moroz, for example, was sentenced in the summer of 1970 to 9 years of imprisonment and 5 of exile under the Ukrainian equivalent of article 70. After the closed trial, a Ukrainian paper published an article stating that among Moroz's crimes was his writing "that the Uniate Church should be placed at the forefront of the spiritual life of the nation" and "imposed" on Soviet Ukraine. In fact, in an historical essay, Moroz had written only briefly of the church's role 200 years earlier.⁶⁴

Soviet sensitivity to the combination of religious and national feeling as a potential disruptive force, explains both the harshness in dealing with individual dissenters in whom the strands join, and the broad, slow, steady efforts to replace such feelings with a Soviet consciousness that blurs regional, historical memory and culture. The problem occupied much of Joseph Stalin's published prerevolutionary thinking and still perplexes the Soviet leadership today. In a different form—ethnic pride—it is familiar to Americans.

But where the thrust of Principle VII is specific on the obligation to give minorities "equality before the law" and to protect "their legitimate interests" in such human rights as free cultural expression, Soviet practice is one of subordinating individual rights to state interests.

Crimean Tatars and Meskhetians

In two cases the policy brings a denial of collective rights. An estimated 800,000 Crimean Tatars, deported en masse to Central Asia in May 1944, as potential traitors, are still denied the land they called home for centuries. Though formally rehabilitated in 1967, Tatars seeking restitution of their farm land on the Black Sea are, with few exceptions, forcibly blocked from returning to it.

⁶² "A Chronicle of Human Rights in the U.S.S.R." op. cit., No. 23-24, p. 24.

⁶³ Ibid.

⁶⁴ "Dissent in Ukraine" (Baltimore: Smolokyp Publishers, 1977), p. 105. The Ukrainian Herald, issue 6.

Where they once had several hundred schools in which to learn their own language, they now have none, and where 39 Tatar textbooks were published during 9 months of 1939, only 2 appeared between 1944 and 1973. In place of seven prewar newspapers there is now one, not a daily.⁶⁵

After purchasing and moving onto land in the Crimea, 10 Tatar families were evicted from their new homes in 1976; at least 4 others were imprisoned in connection with similar attempts.⁶⁶ Mustafa Dzhemilev, now in his ninth year of imprisonment for agitating in behalf of his Tatar rights, was given his latest 2-year sentence in April 1976, when he was convicted of violating article 190-1 for drafting a statement on the Crimean Tatar issue in his jail cell. Vladimir Dvorian-sky, his cellmate and the intended chief prosecution witness, refused to testify at the trial against Dzhemilev,⁶⁷ a stand for which he was later convicted of perjury.⁶⁸

The experience of the Tatars is mirrored in that of a smaller group called Meskhetians who were deported in 1944 from their land on the frontier between Turkey and Soviet Georgia and "rehabilitated" in 1956. They, too, are still denied the right some seek to return from exile. Others have despaired of that possibility and have pressed instead, but also in vain, for permission to move to Turkey. After receiving petitions for restoration of their Georgian nationality from 1,100 Meskhetian family heads, the Moscow group commented:

Formally, the right of Soviet citizens to choose their place of residence is not legally restricted on national or religious grounds. Actually, there is a policy of national, as well as religious, apartheid which is adopted in regards to the Meskhetians, as well as to the Crimean Tatars, the Germans, part of the Koreans, Western Ukrainians and Lithuanians, members of many religious sects, former political prisoners and others.⁶⁹

Ukraine

According to Nikita Khrushchev, Stalin even once contemplated the wholesale deportation of Ukrainians—some 40 million people—to Siberia, but logistics stopped him. In a similar vein, he oversaw the liquidation of the Ukrainian Autocephalous Orthodox Church and the Ukrainian Catholic Church, striking, a scholar told the Commission, "at the spiritual core of a people and nation."⁷⁰

In fact, thousands of Ukrainians were deported to Siberia as the war ended, but the process of denying Ukrainian national identity has taken subtler forms since. It is expressed in the fact that the Ukrainian Academy of Sciences publishes scientific works only in Russian; for Ukrainians in the Republic's capital of Kiev opportunities and incentives to study in their own language have so declined that more than a third attend Russian-language schools. For some 5 million Ukrainians elsewhere in the U.S.S.R., there are no Ukrainian schools.⁷¹

Nationalism in the Ukraine, one of its spokesman told the Commission—

⁶⁵ Helsinki Monitors Reports, op. cit., vol. I, p. 53.

⁶⁶ Ibid., p. 58.

⁶⁷ Ibid.

⁶⁸ "A Chronicle of Human Rights in the U.S.S.R.," op. cit., No. 25, p. 33.

⁶⁹ Helsinki Monitors Reports, op. cit., vol. II, p. 35.

⁷⁰ CSCE Hearings, Basket III, vol. II, p. 145.

⁷¹ "Dissent in Ukraine," op. cit., pp. 63-82.

is not someone who wants his political system to be superior to others . . . but rather . . . wants what has been his for over a thousand years to be continued with his children and his family and with his religion.⁷²

And according to Valentin Moroz's concluding speech at his trial in 1970, Soviet efforts to deny that heritage have only revived the longing for it:

Nothing could have revitalized Ukrainian community life as effectively as your repressions. . . . You wanted to hide people in the forests of Mordovia; instead you placed them on a stage for all the world to see. Your persecutions gave birth to most of the revival's activists. . . . Faith is born where there are martyrs, and you have given them to us.⁷³

The Baltic nations

Similar rhetoric has reached the West from the trial in October 1975, of five members of the Estonian Democratic Movement: Kalju Mätik, Sergei Soldatov, Mati Kiirend, Artjom Juskevitch, and Arvo Varato. All were charged with violating the Estonian equivalent of article 190-1 by circulating some 40 unauthorized documents, including several addressed to the United Nations, which the prosecutor characterized as attempts to get the United Nations to interfere in internal Soviet affairs.

As usual in such trials, the contents of the materials circulated were not disclosed in the court room to determine whether or not they contained the alleged slander. "The judge denied the motion, saying that competent organs had rendered a decision." And, as usual, the defendants were found guilty and sentenced—2 to 6 years and 2 to 5 years in strict regime camps; one to a conditional 3-year sentence on 5 years probation.⁷⁴

What might be considered unusual for a trial of Estonians in the capital of Estonia was the language in which the proceedings were conducted: Russian. Three of the defendants and all the witnesses required the services of a translator.⁷⁵

"A deep sense of Estonian, Latvian or Lithuanian national identity," reads a statement submitted to the Commission, "can . . . be labeled as a crime against the Soviet Union or made a socially despicable trait by the Soviet authorities in the Baltic nations. . . . The ornithologist, Mart Niklus . . . was made an outcast, deprived of job opportunities, etc., for being, in the words of the Soviet authorities, 'an Estonian nationalist' . . . A recent case is reported from the University of Tartu [Estonia] where an openly religious medical student was forced to resign and take up manual employment. Another student professing the Christian faith openly was incarcerated in a mental institution."⁷⁶

The litany of insult to ethnic identity grows repetitive. One final example, however, is needed to show how pervasive the practice of ignoring minorities' "legitimate interests" in human rights can be.

Soviet Jewry

Jews in the Soviet Union number 3 million. For them all, there are 62 synagogues and 5 rabbis. Half a million told Soviet census takers in 1970 they spoke Yiddish as a mother tongue, but no Yiddish books are published.⁷⁷ There are no state schools in European Russia

⁷² CSCS Hearings, Basket II, vol. I, p. 74.

⁷³ "Dissent in Ukraine," op. cit., p. 98.

⁷⁴ CSCS Hearings, Basket III, vol. II, p. 186.

⁷⁵ Ibid.

⁷⁶ Ibid., pp. 190-191.

⁷⁷ Ibid., pp. 113 and 117.

where Yiddish is a recognized language of instruction. The unofficial Hebrew study groups set up by Jewish activists waiting for permission to emigrate to Israel have been under intermittent harassment, to the point where Iosif Begun, who gave Hebrew lessons privately and earned an income at it, was nonetheless exiled to Siberia in June 1977, for parasitism.⁷⁸

But it is not only would-be emigrants who seek to retain a tie to Judaism.

[T]here are many persons, . . .

a Soviet Jewish physicist, who taught himself Hebrew before emigrating, told the Commission,

who want to stay in Russia . . . and observe and be able to study the Jewish religion and culture. . . . They suffer both from the lack of possibilities to perform their religious duties and because of the persecution they are under for being religious . . . many people who are really Jews . . . are trying to keep it a secret because of their jobs. . . . For the average man it is severe enough just to know that if he is religious, he may remain without any bread for his family.⁷⁹

HUMAN RIGHTS IN EASTERN EUROPE

INTRODUCTION

Reflecting their diverse histories, geopolitical situations and styles of leadership, the six East European members of the Warsaw Pact have responded in widely differing ways to the Final Act as a whole and to the human rights commitments of Principle VII, in particular. This report can only record that diversity in sparse detail.

An excellent thumbnail sketch of the comparative performances, however, was presented to the Commission by Dr. James F. Brown, a scholar of the area and, since 1969, the director of research and analysis for Radio Free Europe. In testimony in early May 1977, he weighed the different governments' conduct on Principle VII and Basket III issues, noting that performance "often depends on factors other than conscious implementation" of the Final Act.

His conclusions follow:

Hungary leads the field. Its relatively relaxed atmosphere has resulted in lower societal pressure on the state and little demand for emigration. Its well-known revisionist philosophers have been handled firmly, but not oppressively by Eastern standards and the note of the 34 Hungarian intellectuals supporting the Czechoslovak charterists did not essentially ruffle the Kadarite calm.

Poland I would place second, in spite of the police harassment of dissident intellectuals and of workers still defiant in the aftermath of the June 1976 disturbances. The society of Poland—with the Church as the great alternative center of power, is a more independent society than any other in Eastern Europe.

Generally speaking, and to a large extent because of the strength of society in Poland, the Polish state's fulfillment of Basket III is not discredited by Eastern European standards.

Romania would come a poor third. Ceausescu's concern over his country's image in the West and his determination to remain as independent of the Soviet Union as possible have led to certain concessions, particularly on the emigration issue.

Bulgaria has played a minor role in the Helsinki interaction. The authorities there are in firm control. . . .

⁷⁸ David Shipler, "Soviet Charges A Key Jewish Human Rights Activist With Treason," *The New York Times*, June 2, 1977.

⁷⁹ CSCE Hearings, Basket III, vol. II, p. 128.

The East German authorities have had a bad attack of post-Helsinki nerves. Here the influx of 7 million visitors from the GDR's more relaxed Communist neighbor, Poland, and the 3½ million from the Federal Republic of Germany in 1976, did a good deal to carry the spirit of Helsinki into an environment made inhospitable by the fears of a leadership that has failed to inspire any cohesive loyalties in its society.

Czechoslovakia, quite simply, has the worst record of all. The persisting trauma of 1968 explains much of the hysterical overreaction on the part of the state to Charter '77. And the Husak leadership has found itself under attack by Western capitalists and Western Communists alike. Its implementation record, as far as Helsinki is concerned, is almost unrelievedly bleak.⁸⁰

Other witnesses disputed some of Dr. Brown's judgments. Yet even an exiled Polish writer, concluded that the Final Act was having "a very striking and heartening" effect throughout Eastern Europe:

The very simple principle of human and civic rights and freedoms is becoming in the East a kind of self-sufficient ideology with an extremely strong appeal to people who live there."⁸¹

Based on the evidence it has compiled, the Commission shares that judgment. The post-Helsinki response of four East European states to expressions of that "strong appeal" constitutes the record the Commission summarizes below. The report presents a country-by-country survey of actions related to political freedoms and an overall comment on the question of religious liberty.

CZECHOSLOVAKIA

In Western eyes, the most dramatic East European manifestation of Helsinki human rights hopes in 1977 was the issuance in Prague in January of Charter '77. The document is a manifesto some 1,800 words long, originally signed by 241 Czechoslovak citizens. In it, they call on their Government to honor the international human rights covenants Czechoslovakia "confirmed at the 1975 Helsinki Conference."⁸²

The signers, whose total had reached 750 by June, cited 12 areas of official Czechoslovak practices in violation of the provisions of the Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights:⁸³

Free expression.—"Tens of thousands of citizens have been prevented from working in their professions for the sole reason that their views differ from the official ones."

Education.—"[M]any young people are prevented from pursuing higher education because of their views or even because of their parents' views."

Information.—"The effort to obtain it "can result in persecution."

Free speech.—"Public defense against false and defamatory charges by official propaganda organs is impossible."

Religious freedom.—"systematically curbed . . . persons who manifest their religious faith either by word or action lose their jobs or . . . suffer other repressions."

Right of assembly, right to participate in public affairs, right to equality before the law.—"all have been seriously curtailed."

Right to strike.

⁸⁰ Ibid., pp. 278-279.

⁸¹ Ibid., p. 337.

⁸² Ibid., p. 311.

⁸³ Ibid., p. 313.

Right to privacy.—"gravely circumscribed . . . [by] telephone tapping and the surveillance of private homes. . . ."

Rights of defendants and their counsel.—"in cases of politically motivated persecution."

Right freely to leave one's country.—"is generally violated . . . [by] various illegal conditions."

Charter '77

The indictment is not a broadside. But the official response to its measured criticism and its authors' request for "a constructive dialogue with the political and State authorities" was, in Dr. Brown's words, "hysterical overreaction." English playwright Tom Stoppard, after visiting Prague in July, wrote of the "pettiness of the revenge for Charter '77: driving licenses withdrawn, telephones cut off, typewriters confiscated, and, most of all, livelihoods taken away."⁸⁴

Among the charter signers fired in reprisal was Anna Farova, the curator of a Prague museum collection of photographs by Joseph Sudek, a pioneer photographer. Because of her dismissal, in May the International Photography Center in New York canceled the official Czechoslovak portion of its show of Sudek's work. Another woman, Zina Kocova, a Prague philosophy student, was first interrogated and then for 13 days "forcibly hospitalized in . . . the venereal detention ward" though "there was nothing to give rise to any suspicion that she was suffering from venereal disease."⁸⁵

Tom Stoppard cites other examples:

Jan Vladislav, a respected poet and translator whose version of Shakespeare's Sonnets made him famous twenty-five years ago, today "publishes" his poems, and his friends' books, by gluing together typewritten pages. During one of his luckier periods he published, through the state, some children's stories in English, and these can still be found in London, New York, Toronto, and Sydney—with his name removed from the title page.

Daniela Chichová is of a younger generation, aged about thirty. For four years she had worked in a state-publishing house. She signed Charter '77, and on June 8 she was summoned to the police station. Her boss was also called in, and right then and there in the interrogator's office he sacked her. Was he embarrassed? "Yes, he was, but he still did it." Another girl in the same publishing office was fired simply for attending Patocka's funeral.

Karol Sidon, who is thirty-six, is considered by those around him to be the best young writer in the country. "Until 1969 I lived a normal life," he says. He worked on the magazine *Literary Papers*, and wrote radio plays. Two screenplays he wrote won prizes later on at festivals in Pilsen and Sorrento. When Husak started cleaning out the stables, Sidon was one of hundreds of journalists dismissed. He did some free-lance work for television, then ran a tobacco kiosk; two years of manual labor followed, during which he wrote a novel. When Charter '77 appeared, with his name attached, he was once more "a tobacconist." Arrested and detained for four days, he was released but deemed unfit to run a state kiosk. Now when he is asked what he does he replies truthfully, "I'm a beggar."⁸⁶

Even before the dismissals began, interrogations and arrests of prominent charterists signaled the official reaction to the human rights initiative. There are unconfirmed reports that the Government will try four dissidents, three of whom, playwright Vaclav Havel, journalist

⁸⁴ Tom Stoppard, "Prague: The Story of the Chartists," *The New York Review of Books*, vol. XXVI, No. 13, Aug. 4, 1977, p. 14. Quoted with the permission of the publisher.

⁸⁵ Dr. Avtandil Paplavskii, in a letter received by the Commission and kept in its files. Dr. Paplavskii, now in Austria, worked from 1975 to 1977 as a psychiatrist and lecturer on psychiatry in Czechoslovakia.

⁸⁶ Stoppard, *op. cit.*

Jiri Lederer, and theater director Frantisek Pavlicek, signed the charter, and who were arrested on charges of subversion and antistate activities. Two others—Vladimir Lastuvka and Ales Machacek—also face trial for disseminating the charter. Havel was designated in the document as one of three spokesmen for Charter '77. Former foreign minister Jiri Hajek, now compelled to silence, was a second, and Czechoslovakia's most respected philosopher, Jan Patocka, 69, was the third.

Professor Patocka—a Czechoslovak journalist in exile told the Commission—"was subjected to absurd, merciless interrogations coming one after another [he] collapsed at the end of an 11-hour uninterrupted" session in early March and died on the 13th.⁸⁷ In the hospital on March 8, he wrote:

What is needed is to speak the truth. It is possible that repression may be intensified in individual cases. People are once more aware that there are things worth suffering for."⁸⁸

GERMAN DEMOCRATIC REPUBLIC

There is a certain irony in the fact that the immediate origins of Charter '77 lie in intellectuals' revulsion at the 1976 prison sentences meted out to seven musicians in Czechoslovakia, members or followers of a popular underground combo called the Plastic People of the Universe. Similarly, in East Germany, it was the treatment of a pop musician—balladeer Wolf Biermann, whose citizenship was revoked last November during his first concert tour of West Germany in 10 years—that touched off an outpouring of protest from writers and artists.

The scores of dissenters who made their indignation public have been treated with "subtle repression," noted one Western correspondent⁸⁹ and "relatively leniently for the best-known personalities in the cultural world, but harshly for the less celebrated," judged another.⁹⁰ Subtle or variegated, the reaction was one of repression.

Robert Havemann, the noted physicist and a close friend of Biermann, was put under house arrest. Writers Thomas Brasch and Reiner Kunze were "allowed" to leave for West Germany, where before they had only been able to publish writings that could not see print at home. Author and screenwriter Jurek Becker, creator of the acclaimed film, "Jacob the Liar," joined writer Stefan Heym and at least four others on the blacklist, barred from giving public readings or lectures, and, he fears, from publishing in East Germany.

Of the 12 who signed the first petition asking authorities to "reconsider" the action against Biermann, 6 were members of the Communist Party. Two of them have since been expelled. Finally, 11 young Bierman supporters—mostly students and musicians, including singers Christian Kunert and Gerulf Pannach—are still in jail without trial as a result of their protest actions.⁹¹

Perhaps 100 or more people joined the public outcry over Biermann's expatriation. Their significance is not in their numbers, but in their prominence in East Germany's intellectual life. Another phe-

⁸⁷ CSCE Hearings, Basket III, vol. II, p. 303.

⁸⁸ Stoppard, op. cit., p. 13.

⁸⁹ Ellen Lentz, "Curbs Worry East German Writer," *The New York Times*, July 18, 1977.

⁹⁰ Paolo Garimberti, "Il Dissenso nei Paesi dell' Est," Vallecchi editore, Florence, Italy, 1977, p. 84.

⁹¹ Lentz, op. cit.; Garimberti, op. cit., pp. 82-85.

nomenon—discussed in more detail in chapter IV—of the post-Helsinki expression of human rights longings is quantitatively far more significant.

According to both published and unpublished sources, as many as 100,000 East Germans in 1976 sought permission to emigrate to the Federal Republic of Germany (FRG). The flow of applicants became so embarrassing, that police briefly barred access to the West German Embassy in East Berlin. The link to the Final Act and the hopes it stirred was clear:

The 50 or so East Germans who—despite the crackdown—come daily to the West German embassy in East Berlin to see about emigrating always clutch copies of the documents signed . . . in Helsinki.⁹²

As the experienced Italian analyst, Paolo Garimberti, observed:

The citizens of the German Democratic Republic are demanding that their government respect the international agreements it signed. In no other country in Eastern Europe has the Helsinki Conference provoked such a widespread reaction, and for the party and government of East Berlin it will not be easy to restrict the response with coercive measures.⁹³

POLAND

Facing a set of human rights challenges less intimately related to the Final Act, East Germany's neighbor to the east has also sought to temper coercion with accommodation to the internal discontent which is expressed violently on economic issues and vocally on political ones.

When Polish intellectuals joined to denounce the continued detention of 70 workers arrested in the June 1976 riots over planned (and promptly rescinded) food price rises, authorities gradually released all but five of the prisoners. Under domestic and Western criticism of the detention of nine of the workers' defenders, officials in Warsaw again relented and at the end of July, dropped charges against all of them, and the five workers themselves.

The arrests in May of members of the Worker's Defense Committee had been of special concern to the Commission, because their spokesman, Adam Michnik, was imprisoned only 5 days after he presented, by proxy, his views on Final Act compliance in Poland to a CSCE hearing. Their release is, therefore, a most welcome development and a positive signal of Polish respect for its Final Act commitment "to promote and encourage the effective exercise of civil [and] political . . . rights".

Michnik's testimony offers a capsule guide to the positive and negative side of Principle VII practices in Poland:

- Theoretically, freedom of religion is guaranteed. Nevertheless, practicing Catholics' chances of promotion in a professional career in the Polish state are about equal to an atheist's in the Vatican state. It must be added, however, that baptism of a child does not constitute a crime; a church wedding of, for example, a school teacher, exposes him to administrative reprisals, but not to legal penalty.
- Freedom of expression of thoughts at public meetings is a fiction. Even at private gatherings it may lead to police intervention.
- The right to travel abroad is systematically violated. The situation in this respect in other countries of the Bloc is incomparably worse. Polish citizens travel abroad comparatively often, which doubtless enlarges the area of the individual freedom.

⁹² Craig S. Whitney, "Anxiety Pervades East Germany as Regime Tightens Grip," *The New York Times*, Jan. 12, 1977, p. A3.

⁹³ Garimberti, *op. cit.*, p. 89.

- It is possible to correspond with foreign countries. Letters, both those originating in Poland and abroad, are often checked.
- Access to information is restricted. Citizens are able to purchase small quantities [and] the number of distribution points of foreign publications has slightly increased since Helsinki. However, copies which contain information about Poland, which does not meet with the authorities' approval, are censored . . . [and if] published abroad in the Polish language, are not allowed to be brought into Poland.⁹⁴

One other situation in Poland completes the picture of the duality of state policy in handling human rights matters. Estimates of the number of ethnic Germans still in Poland—some 9 million of them left after World War II—vary from 1 million to half that number. There is no question, however, that Poland is making good on the agreement which it formalized at the Helsinki summit to let 125,000 of them emigrate to West Germany over a 4-year period. In 1976, 19,620 ethnic Germans left Poland for the FRG.

There is also no question that the bargain which opened their path included a German commitment of roughly \$1 billion in credits to Poland over the same 4 years. And there is little question that the desire of some Germans to leave Poland—a figure the Red Cross estimates at 280,000 or more—stems from their wish to pass on their language and culture to their children.

There are no German schools for them

The Christian Science Monitor, reported.

Nor are there German-language newspapers [except for weekly editions of the large Polish dailies that are intended for East Germany]. Only in Wroclaw [Breslaw] are there German-language church services. German-language cultural groups are not permitted.⁹⁵

Poland's record of respect for individual liberty is at best ambivalent. Its protection of the "legitimate interests" of ethnic minorities also merits the same description.

ROMANIA

The record of Romania on similar human rights issues is not as equivocal as, in its details, it is obscure. Over the years—and especially in response to the Final Act—citizens of Czechoslovakia, East Germany and Poland have succeeded in documenting for themselves and outsiders the state of their individual and collective liberties. Until recently such voices coming from Romania were relatively few and muffled, except on matters of family reunification and ethnic identity about which—as often as not—information came from second-hand sources, such as relatives abroad.

In February of this year that situation changed. Bucharest writer Paul Goma, 42, addressed an appeal to the Belgrade Conference, charging that Romania was failing to respect its own Constitution's guarantees—

with respect to civil liberties; the right to work; to education; to association; the right to free speech, press, assembly, meetings and demonstrations; the freedom of conscience; the inviolability of person, home; the secrecy of correspondence and telephone conversations. Equally disregarded is the right to free movement of persons, ideas, information. . . .⁹⁶

⁹⁴ CSCE Hearings, Basket III, vol. II, 338-339.

⁹⁵ David Mutch, "Polish Germans or German Poles: Which Are They?", The Christian Science Monitor, Jan. 11, 1977.

⁹⁶ CSCE Hearings, Basket III, vol. II, p. 390.

The novelist was initially joined in the protest by only eight other Romanians. According to later reports, however, some 200 individuals reached his apartment—through an on-again, off-again police cordon—to endorse the letter as well. It may be that their support—in some cases—was motivated by the Romanian authorities' decisions to grant long-sought emigration permission to at least four of the first eight signers.⁹⁷

Mr. Goma himself has said he wishes to remain in his country, a decision one of Romania's best-known psychiatrists, Dr. Ion Vianu, denounced he was too "tired" and "discouraged" to share. Dr. Vianu, once a frequent participant in international conferences on psychiatry, had come under increasing official pressure because of his criticism of police-sponsored efforts "to intern political dissidents as mental patients."⁹⁸ The doctor's protests had been answered initially by refusal to let him attend scientific gatherings abroad, and later by harsher measures.

Goma's protests earned him arrest from April 4 through May 9. Then, in observance of the anniversary of its independence, Romania decreed an amnesty that extended to political detainees, such as the writer and several Baptist activists who had followed his example of directing human rights complaints to the Helsinki signatory states. Their experience is discussed in the report section below on religious liberty.

If the individuals who joined Goma in breaking their silence about human rights concerns in Romania are few, the treatment of two large national minorities in the country raises questions which affect thousands of people. For ethnic Germans, as chapter IV of the report discusses, emigration possibilities to the FRG have significantly expanded; nearly 12,000 left in the years 1974-76, and over 5,500 have been allowed to emigrate in the first 6 months of this year alone.

For 2-2.5 million Romanians of Hungarian descent, preservation of ethnic identity—not emigration—is the goal at issue. According to testimony presented to the Commission and based on official Romanian statistics, roughly one fifth of the Hungarian population under 7 years of age is denied access to preschool education given in Hungarian, and over one-third of the eligible youngsters cannot get primary and secondary schooling in their native language. By decree, minority languages can only be used for grade school classes of at least 25 pupils and high school classes holding at least 36, numerical levels which are difficult to attain in the small Transylvanian villages where much of the Hungarian population has long lived.⁹⁹

The record compiled for the Commission, also speaks of population policies "to prevent the minority populations of the cities from growing" by discriminating against Hungarians in allotting industrial jobs and siting new factories. In the cultural sphere, Romanian is the required language of official gatherings of writers:

Hungarian poets and authors are forced to discuss their literary work in an alien language: Romanian. Contacts—even informal—with literary associations in Hungary are strictly forbidden.

⁹⁷ Malcolm W. Browne, "Curbs on Dissidents Eased by Rumanians," *The New York Times*, Feb. 19, 1977.

⁹⁸ CSCE Hearings, Basket III, vol. II, pp. 326-328.

⁹⁹ *Ibid.*, p. 408.

Finally,

Six Hungarian newspapers formerly published daily are now allowed to appear only weekly. There is no journal on drama or music or the other arts in Hungarian. . . . Nor are there technical, medical and other specialized journals in the minority languages.¹

Recently Romanian President Ceaușescu and Hungarian First Secretary Kadar met to discuss the minority questions in their respective countries. In their joint communique of June 17, the two heads of state declared that the existence of ethnic minorities in Romania and Hungary—

is a major factor in the development of friendly relations between the two countries.

According to the State Department:

The two sides agreed to approach this issue in accordance with the international norm adopted by the United Nations for the protection of the rights of ethnic minorities.

Religious liberty

The East European record of respect for Principle VII's promised "freedom . . . to profess and practice . . . religion or belief" is also, a mixed one, as some of the discussion above has already demonstrated. At a minimum, in Czechoslovakia and East Germany open religious identification can carry career penalties for adults and social and educational ones for children. On one occasion last year, official East German conduct drew an anguished act of individual response: the suicide by fire of Protestant Rev. Oscar Bruesewitz in protest "of official repression against youth and discrimination against Christians."²

It is from Romania, however, that the clearest post-Helsinki description of religious repression has come to the Commission. In April 1977, six Romanian Baptists—Rev Iosif Ton, Pavel Nicolescu, Aurel Popescu, Constantin Caraman, Rev. Radu Dumitrescu, and Dr. Silviu Cioata—addressed a public appeal to the Final Act signatories to seek "respect of human rights for Evangelical believers in Romania." For this act, they were subjected to extensive police interrogation, and an acquaintance of theirs, who testified to the Commission that month a few days after emigrating to the United States, revealed that several of the letter writers "were beaten by the police, and one of them was brought home unconscious."³

The facts revealed in their documented description of practices in Romania do not suggest that conduct towards believers—especially for the growing neo-Protestant sects which reject governmental requirements that congregations be registered with the state—has changed since the Final Act. Rather, in listing 31 instances of heavy fines levied against named Baptist, Pentecostal and other activists, and 45 occasions of job dismissal or demotion imposed on other individuals because of their religious conduct, the chroniclers show 7 years of consistency in official practices.⁴

Nine of the fines and at least seven of the firings or demotions occurred after the Helsinki summit. In February 1977, Baptists in Cruceni were fined for visiting (and presumably praying with) a sick

¹ *Ibid.*, pp. 405–408.

² Garimberti, *op. cit.*, p. 87.

³ CSCE Hearings, Basket III, vol. II, p. 329.

⁴ *Ibid.*, pp. 434–436.

friend. That same month in Radacinești, four worshippers were fined for holding "an unauthorized meeting in which they sang songs and recited slogans of a Baptist nature, contrary to 'socialist ethics.'" In 1976 Emanoil Seicenu, a Baptist engineer, was refused promotion because his beliefs made him ineligible for a security clearance. Ion Negrița, a Baptist teacher, was fired from his job last January after being attacked in a television broadcast. And Vasile Nicușita was expelled from medical school in November 1976, "because he loaned a Bible to a patient."⁶

Theirs is not the only side of the Romanian religious picture, however, and the Commission was fortunate to have balancing testimony from a Romanian-born U.S. citizen and Baptist activist. In 1976 and 1977, Washington attorney and minister George Crisan traveled extensively in the country he had fled after suffering two terms in jail and disbarment.

"Whoever I talked to," he reported, "told me they enjoy all the freedom of worship they want without any restriction or any interference from the authorities." After visiting Orthodox and Baptist churches, and speaking in several of the latter to "jammed" congregations, he also met Pentecostal and Seventh Day Adventist leaders in the city of Arad who "were eager and happy to tell us . . . that they enjoy the highest degree of religious freedom they have ever had in Romania."⁶

Mr. Crisan concluded his statement with a generalization that can also serve to end this chapter of the report:

Communist theories or practices . . . all degrade the sacredness of the individual and his dignity in society . . . [but] I want to be fair toward the way the Romanian Communist government treats my Baptist brothers . . . I believe in communication between our country and any other country no matter of what political persuasion it may be.⁷

⁶ *Ibid.*

⁶ *Ibid.*, pp. 394-396.

⁷ *Ibid.*, p. 396.

CHAPTER III—BASKET II

(Cooperation in the Field of Economics, of Science and Technology, and of the Environment)

FINDINGS AND RECOMMENDATIONS

FINDINGS

The provisions of Basket II, the Commission has concluded, have had only a negligible direct, stimulative effect in promoting the cooperation outlined in this, the lengthiest section of the Final Act. Conditions—both positive and negative—affecting commerce, the supply of economic data, joint investments, and mutual endeavors in scientific, technological and environmental pursuits have been little altered during the first 2 years after the Helsinki summit.

Trade

While trade among the participating states—and East-West trade, in particular—has continued to expand in the period, implementation of the Final Act is not a prime cause of this development. The growth which has occurred is largely attributable to other factors, some of an ad hoc nature, such as Soviet grain purchases in the United States. Both bilateral and multilateral efforts to apply the provisions of Basket II to commercial practices of the state trading countries have not significantly altered their trading habits. Such efforts, indeed, have been only modest ones, not the strenuous or concerted commitments which might have been able to introduce needed changes.

Science and technology

As with commerce, cooperative work in the sciences, including joint research activities, has moved ahead, but at a pace largely unrelated to Final Act implementation. In one particular area—observance of the commitments to facilitate contacts and exchanges among scientists—the Soviet Union has continued its discriminatory practices against one group of its scholars—scientists denied permission to join relatives living abroad. Attempts to isolate these scientists from their colleagues are jeopardizing good relations between the American and Soviet scientific communities.

Environment

In the area of environmental protection, the Commission is pleased to note progress within the United Nations Economic Commission for Europe toward transforming a potentially hollow exercise in international consultation on environmental matters into a specific, well-prepared and limited discussion of measures Europeans might undertake against long-range air pollution, inter alia.

RECOMMENDATIONS

Although East-West trade has continued to grow in the post-Helsinki period without catalytic stimulus from the Final Act, its development remains problematic. Good-faith implementation of the Final Act—by both East and West—could serve to lessen and, over time, remove some of the obstacles to steady and mutually beneficial increases in commercial activity. As priorities for action, the Commission recommends:

- that both bilaterally and in the course of the Belgrade Conference, the participating states explore the possibility of instituting visa issuance procedures—on a reciprocal basis—to insure greater ease of multiple entry and exit for both transient and resident bona fide businessmen from other CSCO countries;
- that the appropriate United States agencies, including the Congress, undertake a comprehensive review of restrictions imposed by law on the licensing of strategic exports, of the application of antidumping strictures to imports from non-market economies, of the extension of Export-Import Bank credits to the financing of U.S. exports to and investments in nonmarket European economies, and the granting of most favored nation status to those economies. In the course of such a review, consideration should be given to the advisability of a flexible relaxation of some of the restrictions—on a selective, country-by-country basis—in connection with good-faith efforts to implement the provisions of the Final Act. Particular attention should be paid to implementation of those provisions of Basket II regarding measures to ease business contacts and facilities and to supply economic and commercial information on a timely and qualitatively satisfactory basis;
- that the United States and other signatory nations give increasing support to the work of the United Nations Economic Commission for Europe, particularly in its role as an instrument for developing uniform or harmonized standards of economic and commercial information and for notification of regulatory practices; and
- that delegates to the Belgrade Conference, as well as scientists participating in official or informal cooperative research activities with the Soviet Union, strongly protest the continuation of discriminatory practices in the U.S.S.R. against scientific professionals seeking to emigrate.

INTRODUCTION

ECONOMIC COOPERATION

The first three subsections of Basket II—Commercial Exchanges, Industrial Cooperation and Projects of Common Interest, and Provisions Concerning Trade and Industrial Cooperation—affirm the signatories' desire to promote mutual trade and ease commercial endeavors as a way to "contribute to the reinforcement of peace and security." The commitments made are primarily to unilateral actions of a kind which would, if undertaken, facilitate bilateral and multilateral agreements.

The thrust is toward a quickened and smoother pace of economic cooperation between East and West. The underlying rationale is the perception of trade relations as a factor in improving political ties. These sections can be considered a charter of behavior for business dealings between states with vastly different political and economic systems.

As the Final Act is an expression but not a cause of the climate of East-West détente in 1975, so it is with the provisions for reconciling diverse commercial practices and philosophies. The growth and the setbacks East-West trade has experienced in the seventies are related, but only descriptively, to the provisions of Basket II. U.S. trade turnover with the U.S.S.R. and Eastern Europe, for example, nearly doubled from \$2.3 billion in 1973 to \$4.4 in 1976 (the latter figure is disproportionately large because of the massive U.S. grain sales to the Soviets). Where Basket II prescribes detailed measures to improve international commercial conditions, the decisions to adopt or sideline those prescriptions owe more to each signatory's assessment of its self-interest than to any determination to put the Basket II charter into effect.

The first three sections of Basket II attempt to reduce such obstacles as Eastern secrecy over meaningful economic and commercial information; Western import quotas; Eastern redtape and inadequate provision of business facilities; Western export licensing controls; Eastern barriers to access to the final purchasers of Western products; Western nontariff barriers to its markets; the growing Eastern hard-currency deficit (estimated at over \$38 billion at the end of 1976); and mutual frustration over restrictions on business travel.

Clearly, none of these impediments to easy relations could be rapidly removed and Basket II addresses itself to all of these areas of potential conflict. Progress in one area, however, could lead to advances in others. And, as Gerald Parsky, former Assistant Secretary of the Treasury, told the Commission in January 1977, implementation of Basket II could tell constructively on the implementation of the rest of the Final Act, by promoting more openness, more understanding, more human economic intercourse.

I do not consider the Baskets totally separate,

Mr. Parsky testified.

We have established over the recent past a network of relationships, governmental and private. It seems to me we ought to be able, we should be able, we should be pursuing through all of these networks the achievement of the humanitarian interests we espouse.¹

Following the signing of the Trade Reform Act of 1974 and the Export/Import Act amendments into law by President Ford in January 1975, and the unwillingness of the Soviet Union to put into force the agreements permitted by that legislation, there has been an adverse climate for forward progress on the Helsinki agreement. It is noteworthy that the Soviet Union did not renounce the Lend Lease Agreements, the 1972 Trade Agreement and other aspects of the earlier agreements. Moreover, understandings on market disruption, third country arbitration, and dumping continued. Subsequently normalization with

¹ CSCE Hearings, Basket II, p. 73.

other East European nations has progressed, albeit slowly. Most notably, Romania accepted the provisions of the Jackson-Vanik amendment and received Import-Export Bank facilities. The German Democratic Republic established a chamber of commerce relationship.

The holding pattern resulting from the commercial and credit problems between the United States and the Soviet Union deterred further commercial, scientific, and environmental developments. Notwithstanding the negative climate a United Nations Association group headed by Mr. Robert Roosa was cordially received in Moscow in April 1977, and the joint U.S.-U.S.S.R. economic commission headed by Secretary Blumenthal and Soviet Foreign Trade Minister Patolichiev met, after a 2-year hiatus, in Washington, D.C., in June 1977.

A selection of extracts from the language of Basket II discloses the signatories' intentions and priorities in the economic field. The language is also a necessary reference for this report's broad discussion of the problems that persist in implementation of Basket II provisions.

Commercial exchanges.—The participating states . . . aware of [their] diversity . . . emphasizing the need for promoting stable and equitable economic relationships . . . are resolved to promote . . . expansion of trade . . . and economic conditions favorable to such development, [recognizing] the beneficial effects . . . of most favored nation status . . . the importance of bilateral and multilateral agreements . . . will endeavor to reduce or progressively eliminate all kinds of obstacles to development of trade . . . [recognizing] that trade should be conducted in such a way as not to cause or threaten . . . serious injury . . . and . . . market disruption . . . should not be invoked . . . inconsistent with . . . their international agreements. . . .

Business contacts.—The participating states . . . will take measures further to improve conditions for the expansion of contacts between . . . official bodies . . . enterprises, firms and banks . . . [and] where useful, between sellers and users . . . for the purpose of studying commercial possibilities, concluding contracts . . . and providing after-sales services . . . will . . . take measures aimed at improving working conditions of [trade and commercial] representatives . . . by providing the necessary information . . . on legislation and procedures relating to . . . permanent representation . . . by examining as favourably as possible requests for . . . permanent representation . . . by encouraging the provision . . . of hotel accommodation, means of communication, and . . . other facilities . . . as well as of suitable business and residential premises . . . [and] by encouraging . . . participation by small and medium-sized firms. . . .

Economic and commercial information.—The participating states . . . will promote the publication and dissemination of economic and commercial information at regular intervals and as quickly as possible, in particular: statistics concerning production, national income, budget, consumption and productivity . . . foreign trade statistics . . . laws and regulations concerning foreign trade . . . information allowing forecasts of development of the economy. . . .

Industrial cooperation projects of common interest.—The participating states . . . propose to encourage . . . industrial cooperation . . . by means of inter-governmental . . . bilateral and multilateral agreements . . . contracts between competent organizations, enterprises and firms . . . going beyond the framework of conventional trade . . . to join production and sale . . . exchange of know how . . . patents and licenses . . . joint research. . . .

SCIENCE AND TECHNOLOGY

Exchanges in science and technology, like cooperation in commerce, have proceeded at a tempo governed more by mutual self-interest than by the exhortations of the Final Act. Like trade, East-West cooperation in these fields is capable of deepening relations in other areas, but, again like trade, it is not conducted in a political vacuum.

To the degree that joint endeavor has grown since the Helsinki summit, such expansion reflects momentum that predates the Final Act negotiations. To the degree that growth has fallen short of some signatories' hopes, such a lag is due to the persistence of attitudes and practices the Final Act could not, by its mere existence, overcome.

The relevant Basket II language lays out broad vistas of cooperation:

The participating states, convinced that scientific and technological cooperation . . . assists the effective solution of problems of common interest and the improvement of the conditions of human life . . . express their intention to remove obstacles to such cooperation . . . through the improvement of opportunities for the exchange and dissemination of . . . information . . . international visits . . . wider uses of commercial [research] channels and activities . . . [in] agriculture . . . energy . . . transport technology . . . physics . . . chemistry . . . meteorology . . . oceanography . . . seismology . . . glaciology . . . computer, communication and information technologies . . . space research . . . medicine and public health . . . environmental research. . . .

But cooperative endeavors have not fully tapped the opportunities presented.

One general reason for the shortage of new cooperative initiatives is the difficulty of harmonizing research conducted by independent scientists and scientific establishments in the West with the priorities and practices of state-controlled inquiry in the East.

The Final Act defined the opportunities, leaving it to the signatories and to individuals to find ways to bring them into life. That search has continued, but it has not noticeably accelerated.

In relations between the United States and the Soviet Union, a very special obstacle has further complicated the atmosphere. The obstacle is of Soviet making: discrimination against scientists who seek to leave the U.S.S.R., but have been denied permission. The Final Act affirms—

. . . that it is for the potential partners, i.e., the competent organizations, institutions, enterprises, scientists and technologists of the participating states to determine the opportunities for mutually beneficial cooperation and to develop its details.

It specifies further that such cooperation—

. . . should, in particular, employ . . . exchanges and visits as well as other direct contacts and communications among scientists and technologists, on the basis of mutual agreement and other arrangements, for such purposes as consultations, lecturing and conducting research. . . .

Soviet isolation of "refusenik" scientists from such "direct contacts and communications" has aroused growing protest in the American scientific community and spurred a reluctance, which the U.S. Government cannot alone overcome, to participate in joint U.S.-U.S.S.R. scientific and technological activity of the kind described in the Final Act.

ENVIRONMENT

As part of an effort to carry out the commitment in the Final Act's preamble to work toward "solving the problems that separate them and cooperating in the interest of mankind," the signatories singled out environmental protection as a "task of major importance to the well-being of peoples and the economic development of all countries." Specifically, the Final Act provided:

The participating states affirming that . . . many environmental problems, particularly in Europe, can be solved effectively only through close international cooperation . . . agree . . . to take the necessary measures to bring environmental policies closer together and, where appropriate and possible, to harmonize them . . . will make use of every suitable opportunity to cooperate in . . . control of air pollution . . . water pollution . . . land utilization . . . nature conservation. . . .

While endorsing a specific project on "the monitoring and evaluation of the long-range transport of air pollutants" in which Norwegian officials had already made certain advances, the Final Act also charged the United Nations Economic Commission for Europe with broad responsibilities for developing other areas of environmental cooperation. The ECE has responded to that directive and shows promise of becoming an important forum for implementation in this field.

BACKGROUND OF COMMISSION RESEARCH

In its inquiry into Basket II implementation, the Commission has been involved in a variety of projects. In hearings January 13 and 14, 1977, the Commission explored the views of U.S. officials and businessmen on problems and possibilities in East-West trade. In a survey conducted by the Commission staff responses were received from 88 American firms active in dealings with the Soviet Union and Eastern Europe to questions on specific East-West trade issues. A companion survey of U.S. academic experts on international commerce revealed a variety of opinions—complementing or contrasting to those of the business world—on similar questions.

In the context of a hearing on cultural and educational exchange on May 24, 1977, the Commission also took testimony from American scientists about problems in scientific and technological cooperation with the Soviet Union. Additionally, the Commission staff has participated in meetings of UNESCO and the ECE on Basket II implementation. Finally, data supplied the Commission in the two semiannual reports of the President and in staff consultation with private experts and public information sources has helped to provide a solid background for the following analysis of the pattern of Basket II compliance.

ISSUES IN EASTERN COMPLIANCE

As Milton F. Rosenthal, President of Englehard Minerals and Chemicals Corp., testified before the Commission:

Basket II essentially provides for improvement in working relationships and conditions, access to economic data and the like. I cannot see how parallel compliance with these principles by both our country and the Eastern countries can hurt our interests, and [I] believe that it certainly should tend to help them.²

For the West, the specific provisions of Basket II calling for more trade, economic and marketing information, facilitation of business contacts, and access to industrial and commercial end-users were key areas where improvements were desired.

A fundamental difficulty emerges from the systemic differences between market economies and state monopolies. The Western businessman is at a distinct disadvantage in dealing with his Eastern counterpart for, in fact, he has no exact counterpart. Rather, the Westerner is dealing with a state-controlled foreign trade organization, a sort of middleman for the ultimate user or supplier of his equipment.

² CSCE Hearings, Basket II, p. 43.

For example, numerous American firms invited to bid on supplying equipment for the massive Kama River truck factory in the Soviet Union were asked to provide highly technical proposals without knowing the location, scope, capacity or other crucial details of the project. This gave the Soviets a marked advantage in the commercial negotiating process by, for example, preventing firms from making soundly based price quotations.

Such are the typical difficulties encountered by Western businessmen in Eastern countries: Conditions, of course, vary. Because of a lack of communication, Western businessmen are often unaware of trade opportunities. Within the last decade, however, the American level of sophistication in business dealings with the East has increased remarkably, in contrast to the earlier period when their more experienced European and Japanese competitors dominated.

ACCESS AND INFORMATION

It is apparent to American businessmen that it is in the East's self interest to increase trade with the West. Eastern countries wish to achieve this, however, while retaining their traditional *modi operandi* to the maximum possible degree. That is why there has been relatively little progress in business facilitations and provision of economic/commercial information since Helsinki. Regarding access to end-users, for example, the U.S.S.R. has consistently and firmly discouraged the Department of Commerce from compiling lists of ordinary visitors to its stands at Soviet trade shows. Soviets evidently fear that this could later result in unauthorized contacts with factory engineers and other specialists, thus bypassing the sacrosanct foreign trade organizations.

For example, 67 of the companies surveyed by the Commission reported no post-Helsinki improvement in their access to foreign trade officials in the Warsaw Pact; 12 noted some betterment. Fifty firms characterized the *quantity* of available economic and commercial information from the East as unsatisfactory; 53 said the *quality* is poor; 48 scored the lack of *timeliness* of available data.

Change comes slowly in this area because traditions of economic (and other forms of) secrecy are of long standing. Up-to-date foreign trade statistics, industrial data, crop forecasts, informational guidelines for the conduct of trade negotiations, marketing, monetary and supply data—all in various degrees, are supplied incompletely to potential Western trading partners.

The Soviet Union has begun to publish some quarterly trade statistics in a country-by-country breakdown. And under a bilateral agreement, it is providing the United States, at least, with better agricultural data.

Basically, however, the Soviet Union and its allies fear that publishing complete economic data and statistics will endanger their security. As Dr. John Hardt of the Congressional Research Service pointed out at the Commission's hearings:

Wider, foreign dissemination of key economic data may weaken the party control of the economy, foster debate among resource claimants, and provide information to those who may use it for purposes otherwise adverse to Eastern state interests.⁹

⁹ CSCE Hearings, Basket II, p. 9.

The dearth of timely and reliable information has other causes. Eastern societies are not subject in the same ways to the laws of supply and demand. The marketing information that Western businessmen need is often simply not available, because Eastern countries perceive no need to collect such data.

Furthermore, the lack of information may often be the result of endemic bureaucratic delay. These characteristics often inhibit the rapid and efficient conclusion of East-West business contracts even after their principles have been agreed to. The United States and the European Community Nine, for example, registered no less than 37 formal complaints to the United Nations Economic Commission for Europe in 1976 concerning problems encountered with Eastern countries due to bureaucratic inefficiency.⁴

TRAVEL AND FACILITIES

The facilitation of working conditions for foreign businessmen, an important principle of Basket II, has likewise seen only spotty Eastern compliance so far. Most of the respondents to the Commission's business survey have noted little progress. Typically, American firms receiving accreditation in Eastern countries face long waits in being allocated office and living space. Space, once provided, is leased at exorbitant rates (payable in hard currency), many times higher than those charged domestic organizations. Telex facilities and other rudimentary office requirements are provided by host governments only after both lengthy delays and arduous negotiations with the firm's official sponsors.

Of nine American firms seeking to establish permanent offices in Eastern Europe or the U.S.S.R., all but one reported no progress on their concerns since August 1975. Only one company out of 65 responding noted any post-Helsinki improvement in the speed with which negotiations are conducted and contracts concluded. Shortages of hotel and residence space were also mentioned as barriers to easy contact.

It should be remembered, however, that lack of facilities in Eastern capitals is often the result of real shortages of space and structural inefficiency (poor communications, for example), and not just obstructionist tactics on the part of the local bureaucracy. The complicated network of domestic laws and regulations can cause almost insurmountable difficulties.

For example, the Prague Government, as part of its Helsinki implementation, decreed that foreign businesses could set up sales offices in the country. Up to now, no American firms have applied. The reason given is that the effort an American business must expend to obtain accreditation is out of all proportion to the benefits derived, given the small size of the market. Thus, American businesses prefer to work out of West European offices when dealing with Czechoslovakia.

Even if a foreign sales office is set up, business representatives operating it must have easy entry and exit privileges, as should their

⁴ United Nations Economic Commission for Europe: "Consolidated Inventory of Administrative Restrictions in East-West Trade," Doc. Trade/R. 336, Geneva 1976, pp. 1-22.

colleagues making visits from the home country. Travel, when negotiations are lengthy and frequently interrupted, becomes an obstacle to business. Yet 34 of the 88 companies responding to the Commission survey specifically cited the Soviet Union for delaying visas and erecting other obstacles to commercial visits. For example, the U.S.S.R. issues a multiple entry/exit visa only to the head of an accredited office. His subordinates must apply for new visas each time they wish to enter or depart from the country. More recently, the Soviets have tightened this situation even further by requiring 3 days' notice prior to commencement of travel. This regression from past practice renders emergency travel for health or other reasons most difficult. There were eight citations of similar problems in Poland and in East Germany, four for Czechoslovakia and three each for Bulgaria and Hungary.

GENERAL PROGRESS

Though a detailed analysis of the patterns of implementation of all aspects of Basket II is beyond the scope of this report, some general comments on individual nations are in order.⁵ On the whole, trends which were already in existence before Helsinki have continued.

Poland

Poland remains America's largest East European trading partner. There are over a score of Western firms with offices of sales representatives in the country; Poles are fairly forthcoming with economic and commercial information; and the official Joint American-Polish Trade Commission and United States-Polish Economic Council (sponsored by the Chambers of Commerce of the two countries) are effective organizations. In 1976, the Poles passed a law allowing joint ventures with Westerners.

Hungary

Hungary and the United States have resolved most outstanding economic differences, although Hungary still does not receive MFN treatment. Since Helsinki there have been improvements in economic information, and four joint United States-Hungarian ventures are in the talking stage.

Romania

There has been less overall progress with Romania, although the official United States-Romanian Trade Commission is attempting to resolve various Basket II issues through negotiation. There is a joint Romanian-United States venture (involving Control Data); a Western bank (Manufacturer's Hanover Trust) has an affiliate in Bucharest; Romania's record of implementation in this and some other respects has improved since 1975, when it received a Presidential waiver of the Jackson-Vanik amendment provisions and was accorded most-favored-nation status.

⁵ For more extensive discussion of the subject, see "First Semiannual Report by the President to the Commission on Security and Cooperation in Europe" (Washington, D.C.: U.S. Government Printing Office, Dec. 3, 1976), pp. 23-32; and the "Second Semiannual Report by the President to the Commission on Security and Cooperation in Europe" (Washington, D.C.: U.S. Government Printing Office, June 3, 1977), pp. 23-29 for fuller discussion. (Referred to throughout the report as "First Semiannual Report" and "Second Semiannual Report" respectively.)

Bulgaria, Czechoslovakia, German Democratic Republic

Generally, there has been little post-Helsinki progress in implementing Basket II commercial and industrial provisions between the United States and Czechoslovakia, Bulgaria, and East Germany. Western firms—but none from the United States—have opened sales offices in all three countries. Yet none of these countries has done much to improve its record regarding the publication of statistics and economic information.

Soviet Union

In the words of the President's report (December 1976): "There has been no significant change since Helsinki in the quantity, quality and timeliness of statistics and other economic commercial information published within the Soviet Union." Indeed in 1977 there has been some deterioration—a one-third cut in the press run of the basic source of statistical data the Soviets publish.⁶ Working conditions for businessmen should improve by 1980, when the U.S.S.R. opens up its new trade center in Moscow. Despite continuing purchases of U.S. grain, Soviet imports from America were \$135.5 million lower in the first 4 months of 1977 than in the last 4 months of 1976. Soviet exports to the United States, in contrast, rose for the same period by about \$21 million.

CONCLUSION

Generally speaking, then, Eastern compliance with specific provisions of Basket II has not improved markedly since the signing of the Final Act in August 1975. With the possible exception of Romania, the pattern of pre-Helsinki Eastern performance—satisfactory in some cases, poor in others—has not improved to the extent the West had desired.

As one suggested guide to the direction of Basket II improvements, Dr. John P. Hardt, associate director of the Congressional Research Service and senior specialist on Soviet affairs, prepared for the Commission a checklist of topics reflecting Western concerns with Eastern conduct. The Commission is grateful to Dr. Hardt and pleased to present his outlined suggestions for wider consideration.

His proposed agenda for actions of Eastern compliance designed to stimulate complementary Western response follows:

Commercial exchanges.—(1) More access to end users; (2) Longer term trading relationships, i.e., contractual or other relationships assuring continuity; (3) Avoidance of use of monopoly trading practices, i.e., "whip sawing" of Western enterprises; and (4) Less insistence on barter type trade.

Business contacts.—(1) Improved trade centers; (2) Wider acceptance of third country arbitration; (3) Wider acceptance of Western contract law including less frequent use of standard Eastern form contracts; and (4) Increased accreditation of Western firms and banks, especially including smaller national enterprises.

Economic and commercial information.—(1) Adherence to standardization in reporting systems with explanation of categories, especially when changes are made; (2) Publication with-

⁶ "First Semiannual Report," p. 24; and "Second Semiannual Report," pp. 13-14.

out break in series of information in Basket II; (3) Publication of data privately supplied to some Western firms that is not conventionally privileged; (4) Provision of detailed annual, 5-year and longer plans to assist in assessment of market and credit worthiness; (5) Data on current and future crop forecasts; (6) Price data, especially when major changes occur; and (7) Balance-of-payments data, at least as complete as those available from Western banks and the Bank of International Settlement.

Industrial cooperation and projects of common interest.—(1) Actively consider adopting investment laws such as are in force in Yugoslavia, Romania and Hungary; (2) Provide working conditions conducive to effective adoption of Western technology; (3) Consider better arrangements for providing royalties return on investment, etc.; and (4) Extend cooperation to mutually acceptable marketing cooperation.

Science and technology.—(1) Provide improved access to research institutions and leading professionals for improved Western insights into Eastern scientific development; (2) Adopt a special research arrangement for long-term research to encourage a conducive environment for productive joint research; and (3) Release constraints on leading Eastern scientists and provide access to their research to make exchange more mutually beneficial.

Environment.—(1) Encourage joint efforts for improving water, air, and other pollution control in areas of international interest; and (2) Provide better access to facilities using advanced environmental techniques.

ISSUES IN WESTERN COMPLIANCE

Eastern complaints about U.S. (and Western) compliance with the Final Act in the main do not concern specific problems of information, improvements in business facilities, etc. They tend to be focused on broader political issues which govern East-West relations, such as the problem of MFN status (for the U.S.S.R., Bulgaria, Hungary, East Germany, and Czechoslovakia) combined with restrictions on U.S. Export-Import Bank credit, countervailing duties and antidumping legislation. The East claims that these practices constitute U.S. violation of the Basket II affirmations that the participating state "will endeavor to reduce or progressively eliminate all kinds of obstacles to the development of trade" and, more reservedly, "recognize the beneficial effects" MFN can have for trade.

JACKSON-VANIK AMENDMENT

The Trade Act of 1974, with the Jackson-Vanik and Byrd amendments restricting MFN and Eximbank access to those nations meeting emigration requirements, was signed into law in January 1975. The Export-Import Bank Act amendments, with the Stevenson amendment limiting levels and purposes of credit was also signed in January 1975. Export Administration Act amendments became law in June 1977. The first legislation signed by President Carter had a number of features affecting the provisions of Basket II:

(1) Licensing was simplified and expedited. Export was accepted as a right not a privilege. End-user safeguard requirements

were retained as evidenced by denial to Control Data of its application to provide a Cyber computer to a Soviet meteorological station; and

(2) References to nations in a group as centrally planned, Communist-controlled or by other collective terms were eliminated. In the future each country will be individually assessed on the basis of U.S. national interest.

Historically, U.S. legislation has linked economic and political issues. Poland and Romania received Public Law 480, MFN, and Export-Import Bank privileges on the basis of foreign and domestic political developments adjudicated in terms of U.S. interest in 1958 and subsequent years. "Linkage" is a term popularized in recent years but not new to American or general international economic policy.

The Jackson-Vanik amendment, which ties the extension of trade privileges (MFN and credits) to Communist countries' emigration practices, is the most striking example of "linkage" between economics and the human rights issue. As such, it has been a politically volatile issue in U.S. relations with Eastern Europe and the Soviet Union, and has tended to obscure the economic arguments for and against the granting of MFN and Eximbank credits. For example, on the question of MFN, 77 percent of the business responses to the Commission's survey called the absence of MFN a "principal obstacle to the expansion of the firm's business in the East." The academic community, on the other hand, is more skeptical, particularly as concerns the U.S.S.R.

Although there is uncertainty over whether and to what degree the granting of MFN would increase U.S. exports to the U.S.S.R., there is virtual unanimity among scholars that the impact of MFN on U.S. imports from the U.S.S.R., at least in the short run, would be small. Most of the goods which the United States imports from the U.S.S.R. are in the form of raw materials and are subject to little or no duty.

The real importance of MFN to the Soviet Union, therefore, may be its value as a political symbol rather than its economic significance. The Soviets, in fact, seem to view the denial of MFN as indication that the United States, as a matter of policy, is not yet prepared to normalize United States-Soviet commercial relations.

With respect to the extension of Eximbank credits, the business community has been told by the Soviets that the absence of credits has induced the U.S.S.R. to transfer as much as \$2 billion worth of orders from the United States to other suppliers, all of whom accord them MFN. This purported loss of sales may well have influenced U.S. business opinion.

The Commission survey shows that almost 60 percent of the respondents point to the lack of, or inadequate U.S. Government financing as a principal obstacle to trade. In addition, some scholars believe that the limitations on Eximbank credits are a much more important economic obstacle to Soviet trade interests than the denial of MFN. Here too, however, it is not clear that the impact of granting Eximbank credits would be large, given the normal restrictions on Eximbank lendings.

Despite the ambiguities about the real economic value of MFN or the granting of Eximbank credits, well over half of the business respondents and most of the academics agreed that MFN treatment should be extended to the Soviet Union, although only in return for economic

concessions such as easier access to end users, more useful economic and commercial information, long-term trade agreements and improved working facilities for businessmen.

MFN is distinctly less symbolic and more economically beneficial for the East European countries which do not receive MFN treatment from the United States. According to both academic and business opinion, if these countries were granted MFN treatment, their exports to the United States would increase, possibly causing their trade deficits with the West to decline.

This is especially crucial since the accumulated debt to the West for all the Warsaw Pact countries has now reached, according to various estimates, somewhere between \$38 billion and \$46 billion, and is the cause of growing concern among Western economists, officials, and bankers. Although most U.S. imports from the U.S.S.R. are raw materials, Eastern countries produce advanced machine tools, textiles, printing machinery, optical goods, crystal work, leather and natural fiber garments, all of which might be competitive in the United States, were it not for the high duties in force.

There was almost unanimous agreement among those replying to the business questionnaire, as well as the Government and business witnesses at the Commission's hearings, that the direct linkage of trade and humanitarian matters, as in Jackson-Vanik, was inappropriate and/or unworkable. Then Secretary of Commerce Elliot Richardson remarked that Jackson-Vanik—

... is a peculiarly unsuitable instrument for the purpose of pursuing the advancement of human rights.⁷

Former Under Secretary of State Charles Robinson argued that—
... legislation that imposes on the administration the necessity of withholding credits, withholding MFN, for countries that do not meet our standards, clearly does not produce the results we need.⁸

On the other hand, Vladimir Bukovsky, when he testified before the Commission in February, echoed the views of many human rights advocates when he argued that the Jackson-Vanik amendment has had a profound effect in the Soviet Union. Bukovsky testified that he considered Jackson-Vanik "... a tremendous moral victory for the United States."⁹

At the April 1977, meeting of the United Nations Economic Commission for Europe, every Eastern bloc nation criticized the United States for its "restrictive" trade practices. There is no doubt that this chorus will continue at Belgrade.

TECHNOLOGY LICENSING

It is unsure whether the issue of licensing of technology will be contentious at the Belgrade review meeting, but it is certain that both Eastern governments and many U.S. businessmen and academics view the U.S. Government's policy as restrictive and as a hindrance to increased East-West trade. A near majority—42—of business responses to the Commission survey recommended easing complex controls on export licenses for goods considered potentially strategic.

⁷ CSCE Hearings, Basket II, p. 98.

⁸ CSCE Hearings, Basket II, p. 91.

⁹ CSCE Hearings, Basket III, vol. I, p. 32.

Sometimes delays in obtaining these licenses have caused firms to lose a contract. At present, each application undergoes extensive scrutiny from the Commerce, State, Treasury, and Defense Departments, and must reflect the agreement of our COCOM partners.

Eastern Europe and the Soviet Union are hungry for Western technology, and other Western countries are more than willing to fill the breach. As Donald Kendall, Chairman of the U.S.-U.S.S.R. Trade Council, told the Commission:

Technology is not a United States monopoly. Virtually all U.S. technology can be found in Western Europe and Japan. If we do not wish to sell, there are many others who do. The Soviet market is highly competitive.¹⁰

MARKET DISRUPTION

Eastern countries can also complain, with some justification, that U.S. antidumping legislation inhibits trade. The Final Act pledges signatories not to cause market disruption but—as then Assistant Secretary Parsky pointed out in testimony before the Commission—U.S. antidumping and countervailing duty statutes may provide too much protection vis-a-vis imports from nonmarket countries.¹¹ When antidumping legislation—based on market-economy concepts of cost and price—is applied to nonmarket economies' products, it can undercut Eastern attempts to increase exports to the United States, thus increasing the Eastern debt even more.

The Polish golf-cart case is an outstanding example. Poland converted a factory in 1970 for the production and export of golf carts to the West. The enterprise was highly successful until an American competitor accused the Poles of dumping. Importation has stopped for over 1 year, and the Poles face the imposition of substantial duties.

TRAVEL

Delays, rejections or restrictions on U.S. visas to Eastern officials will also be subject to criticism at Belgrade. This issue, however, cuts both ways. In the past year there have been bilateral contacts by the United States with certain Eastern countries with regard to streamlining visa procedures, but no final agreements have been concluded.

MULTILATERAL IMPLEMENTATION

Multilateral organizations play a distinctive role in Basket II implementation. UNESCO is mentioned in the Final Act a number of times, though in relation to scientific exchange, which is not relevant to this section of the report. The International Chamber of Commerce has created an East-West Liaison Committee, which discusses important matters such as arbitration, visa questions and marketing. The ICC is an unofficial but important point of contact between Eastern and Western businessmen. Its decisions can stimulate substantive policy actions by governments.

Warsaw Pact activities in multilateral organizations have grown somewhat since the Final Act was signed, though not necessarily in response to Basket II's thrust to promote interdependence. Initial discussions between the Council for Mutual Economic Assistance

¹⁰ CSCE Hearings, Basket II, p. 116.

¹¹ CSCE Hearings, Basket II, p. 65.

(CMEA) and the European Community have begun gingerly. Eastern membership in multinational shipping conventions and chambers of commerce has expanded. The process has not been uniform and, except for Romania, has not extended past the talking stage in the World Bank and the IMF, but it has promoted the impression in the West of growing Eastern participation in common Basket II oriented endeavors.

UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE (UNECE)

Western governments originally supported the United Nations Economic Commission for Europe (ECE) as a forum for Basket II implementation, and in the past 2 years, under the leadership of its Executive Secretary, Dr. Janez Stanovnik, the ECE has tailored its existing work program to emphasize that role. For example, the organization is making important advances in harmonizing statistical nomenclatures, establishing a multilateral system of notification of laws and regulations concerning foreign trade, and of changes in those laws, standardizing laws regulating inland waterways, and producing trade and business manuals for specific member countries. Furthermore the ECE has held three marketing seminars which have brought Eastern and Western representatives together, and is currently planning a fourth.

The ECE Committee on the Development of Trade agreed in November/December of 1976 to a 5-year work program which emphasized topics corresponding to its CSCE-related mandate. Some of the projects accepted were proposed by the United States, including a proposal for an annual listing by member governments of the basic information they feel is needed to improve the development of trade, and a project that calls on member countries to submit to the ECE lists of directories of firms and organizations concerned with foreign trade.

The ECE also publishes, on an annual basis, a list of complaints by all member countries on restrictions they have encountered in their trade relations with other member countries. In the list for 1976, there were 419 such complaints. Some typical U.S. contributions are: (a) "It appears to be the policy of East European countries to limit accreditation to firms with a large volume of trade in those countries;" (b) a complaint over "frequent reports of delays and difficulties in establishing contacts with buying officials," and (c) "Purchasing contracts must pass numerous levels of approval. Major purchases often involve so many government ministries that sellers find it impossible to identify, let alone contact, decisionmakers."¹²

ENVIRONMENTAL PROTECTION

Undoubtedly the dominant political issue in the ECE during the past 18 months has been the proposals made by Soviet leader Brezhnev for convening all-European congresses in the fields of environmental protection, transport and energy. These were tabled at the ECE by the Soviet Union at the 31st annual session, April 1976. Western reaction was cool; the United States and its NATO allies saw the Soviet initiative as a thinly disguised attempt to distract the signatories from a full review of Final Act implementation by suggesting grandiose

¹² UNECE "Consolidated Inventory," op. cit., pp. 27, 11, 9.

projects in the "spirit of Helsinki." Separately and collectively, the proposed assemblies were seen as potential propaganda vehicles which might be light on constructive specifics.

The ECE's 31st session decided to defer consideration of the proposals and gave member governments a year to analyze them and report their opinions to the ECE Secretariat. During that year, the Soviets and their allies continually raised the proposals, a political gambit which inhibited the work of many of the highly specialized subsidiary bodies of the organization.

At the 32d ECE meeting, held last April, there was no Western or neutral support for the proposed conferences on transport or energy. The session, however, did move in the direction of an environmental protection conference. The transportation of long-range air pollutants, an area of endeavor already endorsed in the Final Act, is a vexing issue, especially for Scandinavians, who are often afflicted by pollution emanating from Central Europe. After a lengthy debate, the delegates passed a resolution which in careful language allows the Executive Secretary, working through the ECE Senior Advisers on the Environment, to explore the possibilities of holding a conference on the environment within the framework of the ECE. The Secretary is to report to the 33d session if there are topics appropriate for consideration at a high-level meeting. The United States and most of its NATO allies did not consider that the ECE had taken an "in-principle" decision to hold a high-level meeting. Since April, it has become apparent that one topic likely to be profitably examined at such a meeting is long-range air pollution.

COOPERATION IN THE FIELDS OF SCIENCE AND TECHNOLOGY

BILATERAL ACTIVITIES

Section 4 of Basket II emphasizes and enumerates the possibilities of cooperation in scientific and technological fields. Among the methods envisaged to broaden cooperation are exchanges of scientists, technicians, and periodicals, as well as the development of joint research programs.

Eleven U.S.-U.S.S.R. scientific and technological exchange agreements came into being beginning in May 1972. Covering such areas as space, medicine and public health, oceanography, energy, and development of an artificial heart, they have been implemented by agreement on the establishment of 205 joint project areas, of which 141 are deemed suitable for joint work. In those fields, joint activity has actually begun on 89 projects, including research in magneto-hydrodynamics, under which the United States this year delivered a 40-ton, \$2.5 million magnet—and escort of researchers—for an experiment in the U.S.S.R.; and, most recently, an agreement between the Electric Power Research Institute in Palo Alto, Calif., and Moscow's Kurchatov Institute of Atomic Energy, to explore collaborative testing of a fusion-based power system that also breeds fuel for fission reactors. Under the terms of the agreements approximately 1,000 scientists from each nation made short visits to the other's country in 1975.

The President's report of December 1976, states that :

Notwithstanding the fact that the provision of scientific and technical data, as well as its quality and quantity, from the Soviet side has been uneven, there has been meaningful cooperation between the two countries since Helsinki.¹³

Some have argued that scientific and technological exchange is a one way street; that we profit little, and the Soviets profit immensely. Yet, after participating in a study of the National Academy of Sciences' scientific exchange with the Soviet Academy of Sciences, Prof. Loren R. Graham of Columbia University, testified before the Commission that :

The majority opinion of knowledgeable American scientists . . . consider[s] the interacademy exchange program as definitely worthwhile, indeed quite valuable in certain areas, and they urge its continuance They agree that in many, probably most, scientific fields the United States is ahead of the Soviet Union, yet the level of Soviet work is sufficiently high to make the exchange a valuable experience for the majority of participating American scientists.¹⁴

PROBLEMS OF IMPLEMENTATION

While bilateral United States-Soviet scientific cooperation agreements were hampered in their initial stages by "poor communications, differing priorities, misunderstandings and security concerns,"¹⁵ Dr. H. Guyford Stever, then Science Adviser to President Ford, testified in late 1975 that—

in spite of the growing pains . . . we are already making considerable progress. . . . There is abundant evidence of good will and serious intent to engage in productive joint efforts. On the positive side, I can report modest but concrete results.¹⁶

No evidence of "good will" or progress can be cited, however, in assessing another, but related, area of Soviet conduct under the Final Act. Sections of part 4 on Science and Technology of Basket II enjoin the signatories to facilitate the "exchange and circulation of books, periodicals and other scientific and technological publications and papers"; "exchanges and visits as well as other direct contacts and communications among scientists and technologists"; and the "holding of international and national conferences, symposia, seminars, courses and other meetings of a scientific and technological character, which would include the participation of foreign scientists and technologists."

Soviet Jewish scientists

Those provisions are universal in scope, but the Soviet Union has frustrated their application to one specific group in its scientific community: Jews who have sought and been denied permission to leave the U.S.S.R. to rejoin relatives in Israel. Denied not only permission to emigrate, they are also refused permission to pursue their professional interests through foreign travel or contacts with colleagues

¹³ "First Semiannual Report," p. 35.

¹⁴ CSCF Hearings, Basket III, vol. III, p. 82.

¹⁵ "A Progress Report on United States-Soviet Union Cooperative Programs," multi-agency report to the Congress by the Comptroller General of the United States, Jan. 8, 1975, ch. 5, p. 42.

¹⁶ Hearings on "U.S.—U.S.S.R. Cooperative Agreements in Science and Technology," Subcommittee on Domestic and International Scientific Planning and Analysis of the House Committee on Science and Technology (Washington, D.C.: U.S. Government Printing Office, Nov. 18, 1975) pp. 8-9.

visiting from abroad. Their treatment contravenes the provisions of Basket II cited above and of Basket III, section 1 pledges on Human Contacts, including the facilitation of "wider travel . . . for personal or professional reasons."

In one way, their situation affects all Soviet scientists. Photocopies of Science and Scientific American magazines, circulated officially to various Soviet scientific and research institutes, are regularly censored to remove from their pages any references to the "refusenik" Soviet scientists. (Articles on disarmament—especially with reference to Soviet arms spending or weapons systems—are also excised.)

"Non-persons" to the Soviet state, the "refusenik" scholars are deprived, as a rule, of their jobs and research facilities. Despite the Final Act's provisions, moreover, they are barred from normal contact with colleagues outside the U.S.S.R.

In April 1977, for example, a number of American scholars were invited to participate in the fifth anniversary session of the Moscow Seminar on Collective Phenomena, a study group organized by "refusenik" scientists to try to keep their knowledge current. Two renowned U.S. physicists—Dr. Bertrand I. Halperin, professor of physics at Harvard University, and Dr. James Langer, professor of physics at Carnegie-Mellon University—arrived in Moscow only to be detained several hours at Sheremietevo Airport and warned that their attendance at the seminar would result in their expulsion from the Soviet Union. They went anyway, but two other Americans who were to give papers at the session—Harvard biologist George Wald, a Nobel Laureate, and Dr. Robert Goldberger, chief of the biochemistry laboratory at the National Cancer Institute—reached Leningrad and were told that they could not go on to Moscow because there were allegedly no hotel rooms available for them.

In all, 10 American scientists *did* attend the seminar, and the fact that it was allowed to take place—after the disruption of a proposed symposium on Jewish culture in 1976 and the arrests in 1974 of the organizers of a similar anniversary meeting of the physical sciences' group—was judged a positive step.¹⁷ Its chairman, Prof. Mark Azbel, was, in fact, given permission to emigrate in June, but only after being warned by a general of the KGB: "While not all American scientists are spies, some of them certainly are."

Dr. Viktor Brailovsky, the scientific secretary of the seminar, has also undergone KGB interrogation since the April meeting, ostensibly in connection with the case being prepared against Anatoli Shcharansky, a prominent monitor of Helsinki accord compliance, arrested in March. Brailovsky and Shcharansky, however, are only passing acquaintances in the Moscow "refusenik" community.¹⁸

Unable to receive visitors in a normal way, the "refusenik" scientists cannot publish their work in Soviet journals nor, with ease, in foreign publications, since much of their mail is confiscated, inbound as well as outbound. The journal of the American Physical Society and other purely scientific publications as well as individual papers sent them by American colleagues are known to have gone undelivered. Of 90 issues of "Physical Review Letters" mailed to the seminar in 1974-76, only 36 were received. Finally, they are denied permission to attend and take part in scientific colloquia abroad.

¹⁷ CSCE Hearings, Basket III, vol. III, p. 104.

¹⁸ Letter of Dr. Robert Adelstein, cochairman, Committee of Concerned Scientists, to Commission Chairman, June 23, 1977.

Dr. Benjamin Levich, an electrochemist and a corresponding member of the Soviet Academy of Sciences, has over the years been invited to take up visiting professorships at 15 American universities. Permission has been repeatedly denied. He was also refused his request to attend and deliver a paper at the 51st National Celluloid Symposium in the United States, June 19-22, 1977, and kept from participating in the international conference at Oxford University, July 11-13, in honor of his 60th birthday.

Prof. Aleksandr Lerner has also been barred from the international scientific assemblies he frequently attended as a leading Soviet Cyberneticist before he applied to emigrate to Israel in 1971. Dr. Brailovsky, who had been invited to chair a session of a June 6-8 Conference on Pattern Recognition and Image Processing at Rensselaer Polytechnic Institute notified its sponsors that 3 days before the meeting was to start he had not received any answer to his month-old request for a special exit visa valid for 1 week.¹⁹

Soviet conduct in this regard presents a real danger to the goals the U.S.S.R. itself seeks from a widening of scientific cooperation. Dr. Loren Graham testified to the Commission that an estimated 10 percent of American scientists already feel so strongly about political conditions in the Soviet Union—

That they will neither go [there] nor receive Soviet scientists in their laboratories. If this number grows appreciably, it could, within another 5 or so years, be a major influence on the exchanges.²⁰

CONCLUSION

The Commission believes that the scientific exchanges and cooperation outlined in the Final Act can only flourish if the spirit and letter of the Helsinki accords are honored. Soviet interference with free scientific inquiry and contact endangers both the human and professional rights of scientists in the U.S.S.R. It also jeopardizes the chances for the productive expansion of existing cooperative activities in the sciences between the United States and the Soviet Union.

SUMMARY CONCLUSION

Despite an increase in the actual volume of East-West trade since 1975, it cannot be said that either Eastern or Western countries have moved energetically to implement the specific measures in Basket II which the other side regards as important. For the West, Eastern secrecy remains a problem, despite some token improvements. Informational flow is vital to successful trade and commercial relations, and most Eastern nations have not been forthcoming.

Eastern criticism focuses on various "obstacles to trade," including Common Market quota systems, and, more specifically, U.S. refusal to grant most-favored-nation status and substantial Eximbank credits to the U.S.S.R., Bulgaria, Hungary, East Germany, and Czechoslovakia.

Both sides are dissatisfied regarding travel and visa restrictions. There have been bilateral discussions with a view towards simplifying procedures, but none has yet been fruitful.

¹⁹ *Ibid.*

²⁰ CSCE Hearings, Basket III, vol. III, p. 83.

The record of progress in putting Basket II provisions vigorously into practice is disappointing. The opportunities presented are vast. If the record of the first 2 years has been poor, there is at least reason to hope that a review of that record at Belgrade will stimulate new efforts to improve performance in the next 2 years.

CHAPTER IV—HUMAN CONTACTS

FINDINGS AND RECOMMENDATIONS

FINDINGS

In promoting freer movement of people, the Final Act has had only mixed effect.

Warsaw Pact states

Implementation of the Human Contacts section of Basket III has helped to resolve family reunification cases involving ethnic Germans in Poland, Romania, and the Soviet Union. Those provisions also appear to have spurred some humanitarian actions by the governments of Czechoslovakia, Bulgaria, and the German Democratic Republic.

Nevertheless, the Final Act has brought no profound adjustments in restrictive attitudes toward travel in the Warsaw Pact states. In the Soviet Union, a Commission survey of recent emigrants—90 percent of them Jews—shows that the waiting period between application for and receipt of a visa has been shortened since the Helsinki summit, and the incidence of multiple refusals of such applications has been somewhat reduced. This progress, however, has not markedly affected longstanding patterns of official conduct aimed at deterring Soviet Jews from seeking to rejoin relatives in Israel or the West. Two years after the Final Act was signed, there are still many husbands and wives who cannot live together, parents who cannot be with their children, engaged couples who cannot marry and other citizens whose professional or personal desire to travel remains unrealized.

Often under prodding from other signatory states and domestic public opinion, the Warsaw Pact states have resolved outstanding human contacts cases. They have largely failed, however, to make the Helsinki pledges to "facilitate freer movement and contacts" an operative part of their official policies and practices.

Generally, those countries which formerly dealt more flexibly with requests to leave have continued to do so after the signing of the Final Act. Others have maintained the restrictive policies adopted long before the Helsinki summit. In some nations, notably Romania and the German Democratic Republic, additional procedural obstacles to freer travel and emigration have been introduced. In other countries efforts to conform with the human contacts provisions have been made. Bulgaria, for instance, has worked to resolve its divided family cases involving U.S. residents and citizens; Czechoslovakia has adopted a more lenient practice toward "illegal" emigrants and toward reuniting parents with their minor children.

Western states

For its part, the West cannot claim full compliance with this section of the Final Act. Although the passport and visa practices of Western Europe, the United States and Canada are markedly more liberal than

those of other signatories, certain admittedly discriminatory restrictions on entry-visa issuance are imposed by a number of states, particularly France, Great Britain and the United States. These practices have not been significantly amended to bring the West into full conformity with the human contacts pledges.

The United States, in particular, retains a cumbersome set of regulations one of the effects of which, in practice, is to put a special burden on former and present members of Communist organizations seeking entry to the United States. Though waived in more than 90 out of 100 cases, this restriction appears more embarrassing than useful to American security. Especially when it is used to prevent visits by Communist trade unionists (traveling as such, rather than in other capacities), the restriction is discriminatory and out of line with the general thrust of the Final Act.

RECOMMENDATIONS

Given the uneven and unsatisfactory record of implementation of the human contacts provisions in their first 2 years, the Commission recommends that the signatories undertake specific, new commitments to respond, in the future, to the pressing humanitarian concerns those provisions are meant to alleviate. Actions should be taken by the participating states collectively and individually, beginning with the 1977 Belgrade Conference.

A Belgrade agenda

When the representatives of the signatories confer in Belgrade on ways to "implement the provisions of the Final Act of the Conference, in order to give full effect to its results," the Commission urges that they take measures in regard to exit visas to:

- insure that the *procedures* for making an application to travel be widely published and readily available to would-be travelers;
- make *application forms* easily accessible and insure that no prohibitions exist against receipt of such applications;
- reduce the number of *documents* required for submission with the application forms to those documents required to prove identity, residence, civil status and the absence of outstanding civil obligations or court-imposed restrictions on movement;
- extend the *duration of the validity* of such documents to insure that no unreasonable impediments exist to making a full application for travel permission;
- eliminate *parental consent* where it exists as a requirement for adults seeking permission to travel;
- require *written responses* within a defined time period (6 weeks, perhaps) to applications for travel permission, including—in cases when permission is denied—a statement of the reasons for the denial, as provided for by domestic law, and the duration of the denial;
- establish nominal *fees*—in no case more than one-third the average monthly wage in the applicant's country—for processing and issuing travel applications to completion; and
- insure applicants' access to *judicial review* of denials of travel permission and applicants' rights to *renew* applications within 90 days of their denial without the submission of new documentation or payment of additional processing fees.

The Commission further recommends that these specific commitments be reinforced by a collective declaration similar to the following statement adopted as a resolution by scholars at the 1972 Uppsala Colloquium on the Right to Leave and to Return:

A person's right to leave a country shall be subject only to such reasonable limitations as are necessary to prevent a clear and present danger to the national security or public order, or to comply with international health regulations; and only if such limitations are provided for by law, are clear and specific, are not subject to arbitrary application and do not destroy the substance of the rights.

Finally, the Commission believes that the signatories at Belgrade—or as an outgrowth of their deliberations there—could profitably undertake a joint study aimed at defining a mutual standard for the application of “national security” and “public order” considerations to restrictions on the right to travel. If it is impossible to harmonize such concepts as state secrecy, classified information, military security and the like, it should, at least, be possible to approach an understanding on the duration of restrictions imposed on travel because of past access to secrets.

Beyond Belgrade

Whether or not the signatories are able to reach agreement at Belgrade on the human contacts action agenda outlined above, the Commission recommends that each signatory review its existing practices in the field of travel and revise its regulations and procedures to conform with the above goals.

Further, the Commission urges the U.S. Government to conclude speedily its review of the provisions of the 1952 Immigration and Nationality Act and to take steps to simplify entry-visa issuance procedures in conformity with the provisions of the Final Act. The Commission believes that individuals whose presence in the United States would constitute a danger to the national security should be barred from entry, but recommends that in denying visas to such individuals, U.S. authorities issue a positive finding of such danger rather than reverse by waiver the broader restrictions now in effect.

INTRODUCTION

GENERAL

One of the more unusual features of the Final Act of the Conference on Security and Cooperation in Europe is the presence of a “Human Contacts” section in a document which contains provisions on such matters as scientific and technological cooperation, military maneuvers, trade and industrial cooperation. The inclusion of specific humanitarian provisions involving the freer movement of people was one of the stipulations on which the Western nations insisted before they agreed to participate in a European security conference. The Soviets and East Europeans reluctantly accepted the inclusion of such provisions because of the importance they attached to other areas of the document, yet all the while sought to qualify and limit their effect.

The result is that the pledges contained in the Final Act on human contacts, although more specific, are not more extensive than those undertaken previously in other international agreements; notably

the Universal Declaration of Human Rights and the International Covenants on Human Rights. The terms of the human contacts section are neither all-encompassing nor legally binding. Thus the signatory nations declared their willingness only to take measures "which they consider appropriate" and steps "as may be necessary" to promote freer movement of people.

Nevertheless, the document signed in Helsinki 2 years ago by the representatives of 35 nations committed those states to the principle that the expansion of citizen contacts across their borders is as important in state-to-state relations as is military security and economic cooperation. Furthermore, the signatories acknowledged that human contacts were a matter of legitimate concern for all the participating nations. The widespread publication of the text of the Final Act by the Warsaw Pact nations themselves has meant that for the first time whole segments of the East European population may have become aware of a right, albeit restricted, which was theirs long before August 1, 1975.

BACKGROUND

Freedom of movement has been recognized as a natural right by most Western civilizations since ancient Greece. In fact, it has been called the first and most fundamental of man's liberties.¹ Disregard of this freedom—

frequently gives rise to discrimination in respect to other human rights and fundamental freedoms, resulting at times in the complete denial of those rights and freedoms.²

The first Western national law to guarantee the right of everyone to leave his country was the Magna Carta of 1215. The French Constitution of 1791 secured—

the freedom of everyone to go, to stay, or to leave without being halted or arrested unless in accordance with procedures established by the Constitution.

In 1868, an act of the United States Congress declared:

The right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty and the pursuit of happiness.

These three provisions served as legal antecedents to modern national laws on the subject of free movement until 1948. In December of that year, the United Nations General Assembly adopted the Universal Declaration of Human Rights and the right to leave one's country for travel or emigration became an internationally accepted human right. Article 13 (2) states that "Everyone has the right to leave any country, including his own, and to return to his country." Although not a legally binding instrument, the declaration has become part of customary international law.

The right to travel and emigrate is, however, also endorsed in several international documents which do have the force of law. Specifically, Article 12(2) of the International Covenant on Civil and Political Rights, adopted by the United Nations in 1966, declares that "Every-

¹ Maurice Cranston, "The Political and Philosophical Aspects of the Right To Leave and To Return," *The Right To Leave and To Return* (Papers and recommendations of the International Colloquium Held in Uppsala, Sweden, June 19-20, 1972). The American Jewish Committee, 1976, p. 21.

² Jose D. Ingles, "Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including His Own, And to Return to His Country." Subcommittee on Prevention of Discrimination and Protection of Minorities, United Nations, New York, 1963, p. 15.

one shall be free to leave any country, including his own." The International Convention on the Elimination of All Forms of Racial Discrimination, adopted by the General Assembly in 1965, provides that each party to the treaty guarantee that everyone enjoy, among others, "the right to leave any country, including his own and to return to his own country."

FINAL ACT PROVISIONS

In comparison to these formulations, the Final Act provisions relating to this right are much narrower. Rather than broadly guaranteeing free movement, the human contacts section of Basket III attempts to set a standard of conduct protecting a citizen's right to reunite or meet with his family, to marry the one he loves, or to travel. The ultimate goal is for the participating states "to facilitate freer movement and contacts . . . and to contribute to the solution of humanitarian problems that arise in that connection."

More specifically, the 35 nations agreed to "favorably consider applications for travel . . . in order to visit members of their families," to "deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family, with special attention being given to requests of an urgent character," to "examine favorably and on the basis of humanitarian considerations requests for exit or entry permits from persons who have decided to marry a citizen from another participating state." While not mandating that all such applications be immediately granted, the language of the Final Act directs, in effect, that applications for these purposes not be capriciously rejected.

The Final Act further directs the signatory states to simplify, shorten, and ease the procedures necessary for travel for the purposes of family visits, reunification or marriage:

Time.—"The preparation and issue of such documents and visas will be effected within reasonable time limits . . . as expeditiously as possible. . . ."³

Fees.—"They will take such steps as may be necessary to ensure that the fees for official travel documents and visas are acceptable . . . they will lower where necessary the fees charged in connection with these applications to ensure that they are at a moderate level. . . ."⁴

Renewals.—"Applications for the purpose of family reunification which are not granted may be renewed at the appropriate level and will be reconsidered at reasonably short intervals . . . fees will be charged only where applications are granted."

Non-discrimination.—" . . . the presentation of an application will not modify the rights and obligations of the applicant or of members of his family" and "Applications for temporary visits to meet members of their families will be dealt with without distinction as to the country of origin or destination . . ." "Persons whose applications for family reunification are granted may bring with them or ship their household and personal effects . . ."

Other travel.—Increased human contacts also require the states "to facilitate wider travel by their citizens." To this end, they must strive "gradually to simplify and to administer flexibly the procedures for

³ For family reunification and marriage.

⁴ For family reunification and marriage.

exit and entry" and "to lower, where necessary, the fees for visas and official travel documents." They must also allow religious faiths, institutions and organizations to "have contacts and meetings among themselves and exchange information" and encourage increased contacts among young people and athletes. Tourism is to be promoted "by encouraging the provision of appropriate facilities and the simplification and expediting of necessary formalities relating to such visits."

By making it easier for people to leave and enter the boundaries of states for personal, professional or touristic reasons, "an important element in the strengthening of friendly relations and trust among peoples" can be secured and can contribute "to the growth of understanding among peoples."

LINK TO PRINCIPLES VII AND X

Directly related to the specific Basket III provisions on freedom of movement is the broader, supportive undertaking of Principle VII:

In the field of fundamental freedoms and human rights, the participating states will act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights. They will also fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia, the International Covenants on Human Rights, by which they may be bound.

This reaffirmation in Principle VII of the observance of existing international instruments is strengthened by another Basket I principle: Principle X on—

Fulfillment in good faith of obligations under international law, in which the participating states pledge themselves to fulfill

both those obligations arising from the generally recognized principles and rules of international law and those obligations arising from treaties and other agreements. . . .

Thus, although the right of anyone to free movement—travel or emigration—is not directly proclaimed in the Final Act, it is supported in the Final Act's pledges to "facilitate freer movement." Those pledges include the specific provisions on family reunification, binational marriage, travel for personal, professional, and touristic reasons. Broadly, however, the Final Act reaffirms other international instruments which, whether as a guide or a legally binding commitment, stipulate the general freedom to leave one's country.



EASTERN EUROPE AND THE SOVIET UNION

While sharing a common Socialist ideology, the countries of the Warsaw Pact vary widely in the application of that ideology to implementation of the Final Act provisions on human contacts. In all the East European countries, the freedom to move is generally viewed as a privilege to be bestowed on citizens by the state, rather than as a basic human right. That privilege is controlled and restricted by the granting or refusal of the basic travel document—a passport. Originally instituted in the West to protect travelers once abroad, the issuance of a passport has become in Eastern Europe the means by which many states restrict the movement of their citizens.

No East European Constitution, except that of Czechoslovakia, expressly guarantees the right of every citizen to leave or return,

but some states, such as Hungary and Poland, have adopted laws which promise citizens the right to a passport, except under certain circumstances. In all countries, an application must be presented together with a set of documents to either the organs of the Ministry of Interior or the Ministry of Foreign Affairs. Those organs then decide whether to grant or refuse the request, and in all countries the authorities may deny the application for reasons of "state security" or the "national interest." Some states legally provide the refused applicant with a right to appeal, usually to another administrative organ.

Within that general framework, both laws and practices and the relation of the practice to the law differ in each country. Poland and Czechoslovakia, for example, have detailed legal codes which govern the issuance of all exit documents and can result in a discouraging and burdensome procedure for most applicants. Hungary's laws are restrictive in one sense, but protective in another since they do provide the citizen with detailed recourse against arbitrary actions of the authorities. Even more important is the fact that Hungarian practice has tended to be more lenient than its laws. East German laws on passports are general and vague and leave a great deal of room for administrative interpretation. The laws of the Soviet Union and Bulgaria are much the same, and the practice in all three countries is to control tightly the outflow of their citizens. Romanian practice has generally involved a more difficult and cumbersome application process than Romanian law dictates.

Each country's laws, however, offer a good indication of their general attitude toward the freer flow of people across state borders. In all instances, movement to other Warsaw Pact countries is considerably easier than to Western states. Few countries have revised their travel regulations since Helsinki, except that Hungary lowered its fees for emigration passports, Czechoslovakia incorporated the International Covenants on Human Rights into its legal system, and the U.S.S.R. modified the fees charged for both application and exit visas and for rejected applications.

There have been changes in practice, however—some in the spirit of, some contrary to, the Helsinki accord. The Soviet Union has reduced the time period for renewing a rejected application from 1 year to 6 months. Actual procedures have, for the most part though, not been revised. Yet many countries are dealing in a more "positive and humanitarian spirit" with the applications of those who wish to travel, be reunited with their families or marry someone from another signatory country—in some very specific instances: Poland, with German requests; Czechoslovakia with cases involving the reunification of parents and children; Romania, with families coming to the United States and West Germany; Bulgaria, with its few U.S. divided family cases; East Germany, with West German requests. Polish, Romanian, and East German efforts in this regard are generally the result of special bilateral arrangements, but are in obvious conformity with the Helsinki accord. Some countries have responded to the Final Act by increasing the difficulties associated with the application process: in Romania, the need to apply for an emigration application and to appear before "People's Councils" has been imposed since Helsinki; and there are indications that the GDR and Bulgaria have recently been blocking citizens' access to foreign embassies.

The following pages will examine these problems in greater detail: what each Warsaw Pact country sets as its standard of conduct regarding human contacts across borders as enumerated in its laws; what these standards are in practice; what changes, if any, have been instituted in the 2 years since the signing of the Final Act; and what the practices have meant when translated into the reality of people being allowed to leave. Although no country has changed its policies to conform fully with the Final Act's provisions, the Helsinki accord has had a major effect on the people of Eastern Europe by providing them a lever with which to press their own governments. The Final Act has also made it possible for other governments legitimately and continuously to pursue the successful resolution of humanitarian cases.

SOVIET UNION

Reunification of families

Laws and regulations

Although the Soviet Union has ratified the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, and is a party, through its membership in the United Nations, to the Universal Declaration of Human Rights, all of which directly guarantee the right to leave one's country for temporary travel or permanent residence abroad, neither the existing nor the proposed Soviet Constitution nor Soviet laws contain this guarantee.

Indirectly, the right to leave the country to resettle abroad is recognized in the Principles of Civil Legislation of the U.S.S.R. and the Union Republics:

Paragraph 9: Rights of Citizens—Citizens may, in accordance with the law . . . choose their occupation and place of residence

Since the legislation does not specify any geographic limitations on the exercise of this right, it could be argued that it applies to freedom to choose a residence outside the U.S.S.R. It is doubtful, however, that the Soviet government's interpretation of the statute is so broad.⁵

Despite the lack of direct guarantees of the right to leave the country, the possibility of leaving is acknowledged by both the Soviet Constitution and Soviet law. The 1977 draft of the Constitution, in chapter 6, article 33, states: "Citizens of the U.S.S.R. living abroad shall have the protection and guardianship of the Soviet state." The Statute on Entry into the Union of Soviet Socialist Republics and Exit from the Union of Soviet Socialist Republics, approved by the Council of Ministers of the U.S.S.R. on September 20, 1970, reads:

5. Departure from the Union of Soviet Socialist Republics of Soviet citizens shall be permitted on the basis of documents listed in (section) 8, items *a-d*, of the present Statute.

Section 8 of the law stipulates that,

For the purpose of departure from the U.S.S.R., stay abroad, and return to the U.S.S.R., a citizen of the Union of Soviet Socialist Republics may be issued:

- (a) a diplomatic passport;
- (b) an official passport;
- (c) a seaman's passport; and
- (d) a general citizen's foreign passport.

⁵ Valery Chaldize, "To Defend These Rights" (New York: Random House, 1974) p. 97.

According to section 16 of the statute, a general citizen's foreign passport will be issued to Soviet citizens, other than diplomats, government officials, and crew members of Soviet ships, who "travel abroad on official, social, and personal matters, as well as to citizens who stay abroad permanently."

In addition to a foreign passport, an exit visa is also required. Section of the statute states:

Exit visas from the Union of Soviet Socialist Republics shall be issued by the Ministry of Foreign Affairs of the U.S.S.R., the ministries of foreign affairs of the union republics, the diplomatic agencies of the Ministry of Foreign Affairs of the U.S.S.R., the Ministry of Internal Affairs of the U.S.S.R., the ministries of internal affairs of the union and autonomous republics, and the divisions of internal affairs of territorial, provincial (*oblast'*), and city executive committees of councils of workers' deputies, in accordance with the prescribed procedure.

The statute, in section 18, further states that the documents necessary for leaving the U.S.S.R., residing abroad, and returning to the U.S.S.R.—namely, the passport and exit visa:

Shall be issued in accordance with the prescribed procedure on the basis of written applications submitted by the interested ministries, agencies, and organizations of the U.S.S.R., as well as on the basis of applications submitted by citizens going abroad on personal matters.⁶

However, there are no provisions in the statute with regard to the "prescribed procedures" either for granting the passport and exit visa, or for submitting an application for such travel documents. Any regulations governing the procedure the authorities use in considering citizens' applications for permission to leave the country are not published, yet Soviet authorities have stated that "there are, of course, rules determining the emigration procedure of Soviet citizens."⁷ Although section 7 specifies the Government organs charged with actually issuing the exit visa, the statute does not delegate authority to formulate the issuance procedures to any Government department. The U.S.S.R. Ministries of Foreign Affairs and Internal Affairs were expressly authorized, in the previous statute of 1959, to establish such procedures in agreement with the Council of Ministers and the Ministry of Defense. It must be assumed, therefore, that these departments are still authorized to issue procedural codes and regulations governing passport matters.

The preliminary and final stages of the process are handled by the Office of Visas and Registration (OVIR) of the Ministry of Internal Affairs; the applications are submitted there and the granting or refusal of permission to leave is communicated by OVIR. Whether other Government organs are involved in the intermediate stages is unknown. Col. Vladimir S. Obidin, Chief of the All-Union OVIR, referred to the organization he heads as the one "to which those people apply who, for so-called private purposes, are petitioning to leave or to enter the U.S.S.R. As an organ of the MVD (Ministry of Internal Affairs), the OVIR also monitors foreigners' observance of the rules of residence in or transit across the territory of the Soviet Union . . . the MVD organs have over the past 5-year period examined all peti-

⁶ Chaldze speculates that the fact that, unlike applications filed by ministries, departments, and organizations, an individual's application need not be submitted in writing is based on the Soviet legal tradition of not allowing discrimination on the basis of literacy.

⁷ Boris Shumilin, "The Soviet View of Emigration," *The New York Times*, Feb. 3, 1976, p. 31.

tions concerning exit from and entry into the U.S.S.R. for private purposes.”⁸ However, Obidin does not disclose whether or not OVIR alone is responsible for the decision-making in emigration matters. Instead he states: “Of course, when resolving emigration questions, *the Soviet organs* take into consideration the need to defend the State.” [emphasis added.]⁹ It remains unclear to which Soviet organs he is referring.

Until early 1976, applications for exit permission were accepted by the local OVIR's and then forwarded to the ministries of internal affairs of the union and autonomous republics for decision. According to information appearing in the American press,¹⁰ this procedure has been changed and “the emigration decisions are made by the local bodies responsible for internal affairs.”¹¹ However, some persons refused exit permission have reported that they were told by the local OVIR that the decisions are made elsewhere.¹²

It should be noted that the Soviet Government distinguishes between foreign travel to a socialist country and to a capitalist country. Although there are long delays and bureaucratic obstacles associated with any foreign travel, it is relatively simple to obtain permission to travel to Socialist countries.¹³ For travel or emigration to a capitalist country the requirements are more complex and the fees higher.

To apply officially to leave, one must submit to the local OVIR the following documents:

- (1) an invitation from relatives abroad;
- (2) a declaration form;
- (3) an autobiography;
- (4) a certificate from one's place of work;
- (5) permission from one's parents;
- (6) permission from one's former spouses;
- (7) a certificate from place of residence;
- (8) copies of certificates of birth, marriage, divorce, death of relatives and educational diplomas; and
- (9) photographs.

The documents must be submitted to OVIR by the applicant in person. OVIR will not accept the documents through the mail and, despite the fact that the statute on the bar of the RSFSR does not preclude the possibility of retaining counsel in administrative affairs,¹⁴ lawyers are not allowed to represent clients in foreign passport matters.¹⁵

Documents submitted to OVIR are accepted by an inspector: the applicant receives no receipt for them. Under Soviet law a decision must be made within a month of submission.¹⁶ The applicant is noti-

⁸ Vladimir Obidin, in an interview published in the morning edition of *Izvestia*, Jan. 23, 1977.

⁹ *Ibid.*

¹⁰ Christopher Wren, “Soviet Revising Bureaucratic Procedures for Would-Be Emigrants,” *The New York Times*, Jan. 21, 1976, p. 8.

¹¹ Shumilin, *op. cit.*

¹² Yuri Shtern, a Russian national, who was allowed to emigrate in 1976 after 2 years of refusals, reports that an official of the Leningrad OVIR told him: “Yes, I agree, you have all the humanitarian and civil rights proclaimed in the Helsinki accord but, nevertheless, you must understand that the decision to let you leave is made up above—instructions have not come down to me yet.”

¹³ Chalidze, *op. cit.*, p. 99.

¹⁴ Decree on the Bar of the RSFSR, *Sistematicheskoye Sobraniye Zakonov RSFSR*, XIV, p. 811.

¹⁵ Chalidze, *op. cit.*, p. 100.

¹⁶ “The Labyrinth: How To Apply To Leave Russia for Israel,” written in U.S.S.R. by six Soviet Jewish activists and published in the United States by the Union of Councils for Soviet Jews and the Student Struggle for Soviet Jewry, March 1976.

fied of the decision in person or on the telephone but almost never in writing. Very often, no reasons for the decision are given.

In the case of a refusal, there is no judicial recourse.¹⁷ The applicant may ask the local OVIR for a periodic review of the application. The established practice for review was once a year. In January 1976, the Soviet Government announced that the waiting period would be shortened to 6 months.¹⁸ In addition, according to Deputy Minister of Internal Affairs, Boris Shumilin, the applicant "can apply to a higher body, for instance to the republican or all-union authorities"¹⁹ if he disagrees with OVIR's decision.

Fees for general citizens' foreign passports amount to 30 rubles (about \$40) for persons leaving for Socialist countries.²⁰ In January 1976, it was reported that the passport fee for travel to capitalist countries was being reduced from 400 to 300 rubles.²¹ However, as of March 1977, no pertinent regulation had been promulgated in the official gazettes of the U.S.S.R.²² The only change in the system of fees was enacted in the Edict of the Supreme Soviet of the U.S.S.R. of December 23, 1975, which provides for the refund of the \$40 application fee paid on repeat applications which are denied;²³ the fee paid for the first application is not refundable.

In addition, it is compulsory for those leaving the country for permanent residence in Israel to renounce their Soviet citizenship.²⁴ A petition for release from Soviet citizenship must be filed with the Presidium of the Supreme Soviet of the U.S.S.R. and must be accompanied by a payment of 500 rubles (about \$600).

From 1972 to 1973, a Soviet citizen emigrating from the Soviet Union was required to reimburse the state for the expenses incurred in his behalf for higher education. This obligation was introduced by the edict of the Presidium of the Supreme Soviet of the U.S.S.R. Concerning Reimbursement for State Expenditures for Education by Citizens of the U.S.S.R. Emigrating for Permanent Residence Abroad of August 3, 1972.²⁵ Application of this was suspended in the spring of 1973, although the law has still not been repealed.

Process and practices

As stated previously, the process of applying for exit permission is lengthy and complicated. Since no regulations governing the procedure used by the authorities in granting or denying visas are published, most applicants are in the dark as to how the decision in their case is reached. According to a survey administered by the Commission, 79 percent of the post-Helsinki emigrants interviewed were never shown

¹⁷ In the case of *Dona N. Koliaditskaya v. OVIR*, the Moscow City Court, Civil Division, stated in its decision of Feb. 8, 1970, that "the decisions on questions concerning the departure of U.S.S.R. citizens to another country are subject to the jurisdiction of administrative organs and not judicial organs." L. Schroeter, "How They Left: Varieties of Soviet Jewish Experience," *Soviet Jewish Affairs*, 1972.

¹⁸ Wren, *op. cit.*

¹⁹ Shumilin, *op. cit.*

²⁰ Regulation No. 598 on Rates of State Fees of Apr. 29, 1942 (SP, SSSR, No. 4, 1942, Text 71) as amended by Regulation of Sept. 22, 1970 (SP, SSR, No. 18, 1970, Text 140).

²¹ Wren, *op. cit.*

²² Tadeusz Sadowski, "Freedom of Movement and Travel Under the Laws of the Union of Soviet Socialist Republics," *European Law Division, Law Library, Library of Congress, March 1977*.

²³ *Vedomosti Verkhovnogo Soveta SSR*, No. 1, 1976, Text 2.

²⁴ *The New York Times*, Jan. 27, 1976, p. 8.

²⁵ *Vedomosti Verkhovnogo Soveta SSR*, No. 52, 1972, Text 519.

any official instructions concerning emigration procedures and requirements.²⁶

Submitting An Application

The instructions for compiling the documents necessary for making an application are purportedly on display in the waiting rooms of OVIR's throughout the U.S.S.R. It is known that these instructions are posted in some OVIR's,²⁷ yet according to a recent emigrant from Kiev: "Soviet authorities do not give people exact instructions about the gathering of necessary documents for purposes of emigration" and, another from Odessa: "At no time is anyone shown any official documents or instructions"

The first document required in order to apply for an exit visa is an invitation to join relatives abroad, known as a *vyzov*, which justifies the emigration as being for purposes of family reunification.²⁸ The invitation must be translated into the Russian language and be certified correct by the authorities of the country involved or by other organizations authorized by that country.

Because of unreliable international postal and telephone communications, especially with Israel, it is difficult for the prospective applicant to ask his relatives for a *vyzov*. The Commission has in its files several letters from an individual in Leningrad to his relative in Israel which illustrate this problem. The letters, in Russian, are printed in normal size. In very small writing, are the words: "Please send a *vyzov!*" printed just along the crease of the letter, apparently in an effort to avoid a censor's detection.

The most serious delay in the application process is often caused by the nondelivery of *vyzovs* from abroad.²⁹ Emigrants report that these frequently disappear altogether or are delivered to the local OVIR rather than to the addressee. "Exit invitations are artificially held up and are not sent to the addressees," according to an emigrant from Odessa. Nineteen percent of the recent emigrants surveyed by the Commission reported difficulty in obtaining from Soviet authorities the invitation from relatives abroad. A recent emigrant from Ukraine says:

I know a lot of people who have not received their exit invitations, even though they are certain that their relatives in Israel have sent them. In Lvov, this has become the number one problem for those who want to emigrate to Israel.

To receive a *vyzov* can take anywhere from one month to over a year. If there are any mistakes on an invitation from Israel, corrections can only be made at the Dutch Embassy in Moscow which represents the Israeli government in the U.S.S.R., or in cases of invitations from other countries, at the embassies or consulates of those

²⁶ A 21-item Russian language questionnaire was administered by the Commission to 1,085 recent Soviet emigrants in Israel, Rome, Vienna, and New York from February 1977 to May 1977. The questionnaire was designed to elicit information about actual practices of Soviet authorities in dealing with emigration applicants. Results of the questionnaire and remarks from it will be cited throughout the body of this Report. See app. B for complete questionnaire results. In addition, in-depth interviews with former Soviet Jewish "refuseniks" and the families of present "refuseniks" were conducted and will also be quoted in this report.

²⁷ Challidze, *op. cit.*, p. 99.

²⁸ Vladimir Obidin, "In the Spirit of Helsinki Conference," published by Tass, Jan. 20, 1977.

²⁹ Draft report entitled "Soviet Jewry and The Implementation of the Helsinki Final Act" prepared on behalf of the ongoing Presidium and Steering Committee of the World Conference on Soviet Jewry, May 1977, p. 10.

nations. It is often difficult for persons in distant republics to travel to Moscow for this purpose.

Another required document is a special form declaring one's wish to leave, which must be filled out by each person over 16 years of age. The form requires the names of close relatives, both living and dead—father, mother, spouse, children, brothers and sisters—whether living in the U.S.S.R. or abroad, and the names of the people one wishes to visit or rejoin. Applicants must declare whether a relative has ever lived on Soviet territory, when he left it and under what circumstances. In cases of visits to friends, the applicant must supply the year the friendship began and the nature of the friendship.

This form is obtained at the local OVIR. According to reports from would-be applicants of Odessa and Kishinev, the OVIR's there often say the forms are not available.³⁰ In other cases, OVIR's have simply refused to supply the necessary form.³¹

The applicant is also required to write, in narrative style, an autobiography with mandatory reference to: nationality, date and place of birth of applicant; names, date and place of birth, nationality, occupation and present address of both parents; party status and length of service; education and knowledge of foreign languages; profession; work experience including military service; family status—spouse's name, date and place of birth, nationality, party status, occupation and employer and similar information for spouse's parents, adult siblings, and children; whether applicant or any relatives were ever on territories temporarily occupied by enemies, ever brought to trial, or ever traveled abroad.

The required document which, in many cases, creates the most problems for the would-be applicant is the work certificate. Formerly, a detailed character reference (*kharakteristika*) from one's place of work was necessary. This document, signed by the director of the enterprise, the secretary of the trade union and the Party secretary, stated that the *kharakteristika* had been given in connection with departure for a foreign country and indicated the duration of the leave of absence. The personal and professional qualifications of the potential applicant were noted, as were the opinions of the three regarding the applicant's departure.

In early 1976, it was reported that the *kharakteristika* was being replaced by the work certificate. The same signatures would be required, but without the character references. In this certificate one's job is noted and "the absence of any financial claims against the applicant is confirmed."³² The country of destination is not required in the certificate, but the fact that it was issued for OVIR is necessary. This certificate amounts to notification of an applicant's employee of the employee's intention to emigrate even before that intention has been formalized in an application. Despite the announced post-Helsinki reform of eliminating the *kharakteristika* from the required application documents, 32 percent of the post-Helsinki emigrants in the Commission's study said they were obliged to provide that document. Nevertheless, that is considerably less than the 96 percent of the pre-Helsinki group who were required to submit a *kharakteristika* with their application.

³⁰ "Labyrinth" op. cit.

³¹ "Helsinki Monitors Reports," vol II, June 3, 1977, p. 44.

³² "Labyrinth," op. cit.

Since there are no regulations determining how, when, and even if an enterprise should supply an employee with a work certificate, the would-be applicant is often forced to resign "voluntarily" in exchange for the certificate. For example, Arkady Tsinober of Riga was asked to resign his position as a professor in magnetic hydrodynamics after requesting the *kharakteristika* in October 1975.³³ In addition, if the employee refuses to resign, he could be subject to public condemnations at workers' meetings, threats, demotions, and dismissal from the union.

In the case of students, a certificate—which could result in expulsion—is required from the university. For unemployed or retired persons, a certificate testifying that they are pensioners or stating whose dependents they are, must be obtained at the housing office. It often takes anywhere from one month to half a year to obtain these certificates.³⁴

If the applicant's parents remain in the U.S.S.R., they must declare whether they have any financial claims on their offspring, regardless of age. This document must be certified at the parents' place of work or residence and must state the parents' attitudes toward their child's departure abroad, giving their consent. The justification for requiring this affidavit is based on the necessity to check if all obligations arising from the domestic relation laws have been settled.³⁵ These obligations include the right of various members of the applicant's family to claim his support.³⁶ Additionally, however, Mr. Albert Ivanov, head of the Administrative Department of the Central Committee of the CPSU reportedly stated:

Apart from this [i.e., the maintenance claims] we must also know the parents' attitude to the children's emigration as we cannot only follow materialistic considerations. It often happens that parents cannot become morally reconciled to the emigration of their children. . . . We must take into account the moral aspects as well.³⁷

This requirement becomes a serious obstacle in the emigration process since it is open to abuse by unscrupulous relatives, by relatives fearful that their consent might reflect badly upon them in the authorities' eyes, and by authorities who can intimidate relatives into withholding their consent. The parents of an applicant face a difficult choice—either deny permission or face possible harassment and repression. Even loving parents often withhold permission, since they know that their separation from their children and grandchildren will be permanent.³⁸ It is, however, often those parents who have had no contact with their children for years who object to their departure. Such is the case of Irina Chertkova, a 25-year-old from Leningrad, who, with her husband and 3-year-old son, wants to join her sister in this country. Her mother-in-law refuses to provide the necessary form for her husband, Andrey Shishov, to apply to emigrate, despite the fact that the mother has no financial claim on her son and has never even seen her grandson.

³³ Draft Report, op. cit., annex IX, p. 2.

³⁴ "Labyrinth," op. cit.

³⁵ Shumilin, op. cit.

³⁶ Fundamental Principles of Legislation in the U.S.S.R. and Union Republics on Marriage and Family, adopted by the Supreme Soviet of the U.S.S.R. on June 27, 1968, art. 13, 18, and 21.

³⁷ According to participants in a Feb. 16, 1976, meeting between Ivanov and Jewish refuseniks as reported in draft report, p. 8.

³⁸ Those who do leave must renounce their Soviet citizenship and their relatives are seldom permitted to travel abroad as tourists.

Of the emigrants questioned in the Commission survey—all adults over 18 years of age—73 percent had been required to document their parents' approval of their desire to emigrate. Interestingly, of those emigrants who left prior to the August 1, 1975 signing of the Helsinki Final Act, only 53 percent had to certify their parents' consent.

Another document with the same justification, is the permission of one's former spouse. This affidavit, necessary if the applicant has minor children who will remain in the U.S.S.R. must be attested to in the place of work or residence of the spouse. If the former spouse refuses to give permission (often due to worries about the child's future, since the fact of his mother's or father's residence abroad will appear on all his records), there is no legal recourse available. If the applicant seeks to take his child with him, then the remaining parent—even if never involved in the child's upbringing—must give permission.

The other required documents include a certificate from one's place of residence, noting the address and names of persons living with the applicant, and notarized copies of birth, marriage, divorce, and death certificates and educational diplomas. In cases where birth or death certificates are missing, the applicant must inquire at the ZAGS (Registry Office) of the town where these events took place and present the response to OVIR.

The *vyzov* is valid for 1 year, after which it may be renewed, at the embassy of the nation involved, twice for a year each time. Financial documents are valid for 1 year, permission from one's parents and former spouse, housing certificates and other biographical certificates are valid for 2 months.

Even after all the documents are assembled, it is often difficult to hand them in. In many cities, OVIR offices are only open for receipt of documents a few hours a week. Some persons wishing to travel or emigrate abroad have to wait 7 or 8 months to hand in their documents, by which time many are no longer valid. Although this can be viewed as typical bureaucratic hindrance, the treatment from OVIR officials which many emigrants report receiving, seems to be more than mere redtape: "At OVIR, authorities are quite rude" notes an engineer from Odessa. A recent Jewish emigrant from Kiev commented, "In places where one must tender documents, anti-Semitism flourishes, which creates in people feelings of uncertainty, depression, and expectations of all kinds of provocations."

The documents must be accompanied by a fee of 30 *rubles* which is supposedly payable only once in cases of a negative decision. However, according to the Commission's survey, 49 percent of those originally refused visas were obliged to pay a duplicate fee.

The average wait for an answer to one's application is about 2 or 3 months; according to the Commission's survey, 75 percent received permission within 6 months of filing their applications. Boris Shumilin recently claimed that "the review period for applications for permanent emigration has been cut to 30 days."³⁹ However, a recent emigrant says: "The time it takes to analyze applications to emigrate is intolerably dragged out by the provincial OVIR in Odessa. It takes up to a year; in my case it took 9 months. . . . Nor do the authorities explain anything about the application process. Therefore, people are

³⁹ Boris Shumilin, "Moscow and the Departure of Soviet Citizens from the U.S.S.R.," *Le Monde*, July 10-11, 1977.

in complete ignorance and do not know what stage they are on in the process." Another emigrant from Odessa notes: "No explanation is given for the very long time it takes to get permission." Nearly 1 in 10 of the emigrants questioned in the Commission survey waited from 21 months to 6 years for permission.

That wait has shortened, however, in the last 2 years. Where 59 percent of the pre-Helsinki applicants obtained their visas within 6 months of applying for them, as mentioned above, 75 percent of the post-Helsinki respondents to the survey waited less than half a year for their permission to emigrate. Similarly, 22 percent of those who applied before the Final Act was signed—but only 12 percent of the post-Helsinki group—experienced delays of a year or more in obtaining visas.

Receiving an Answer

Compiling the documents, handing in the application and waiting, however, are only the beginning and often not the most difficult steps on the road to emigration or travel. For many, these efforts result in refusal. Fifteen percent of the post-Helsinki emigrants interviewed had been rejected and, of these, 24 percent had been turned down between three and six times, while 11 percent had been refused eight or more times. Refusals appear to be almost equally distributed between professional and nonprofessional applicants, except in the Baltic republics where a startling 41 percent of the professional applicants reported receiving one or more rejections.

Nonetheless, the incidence of refusals has dropped since the Helsinki summit, according to the Commission survey. Of the polled pre-Helsinki emigrants, 32 percent had received at least one refusal and only 63 percent reported obtaining their visas without a single denial. Among the post-Helsinki respondents, however, 79 percent had received no refusals, and only 15 percent had been rejected one or more times. Multiple denials were given to 73 percent of the pre-Helsinki refuseniks, compared to just over half of those who came after them.

Since the applicant almost always receives an oral refusal, it is difficult to document all the reasons. However, based on official Soviet pronouncements and reports from emigrants, it is possible to discern the most frequently cited reasons.

According to Deputy Minister Shumilin: "Restrictions that we sometimes impose proceed directly from the clauses of the covenant on civil and political rights."⁴⁰ The clause to which Mr. Shumilin refers is article 12, paragraph 3: "The above-mentioned rights shall not be subject to any restrictions *except those which are provided by law* [emphasis added] are necessary to protect national security, public order [*ordre public*], public health or morals or the rights and freedoms of others. . . ." Although the draft of the Soviet Constitution, in chapter 7, article 39 states that: "Exercise by citizens of rights and freedoms must not harm the interests of society and the state, and the rights of other citizens." it must be noted that the concomitant condition in the covenant that these restrictions be "provided by law" is not fulfilled in any known Soviet legislation.

There is no provision in the Soviet legal system to clarify which categories of employment carry with them the abatement of the free-

⁴⁰ Shumilin, *The New York Times*, op. cit.

dom of movement or what is the length of time required for declassification.⁴¹ Thus, without legal guidelines, the Soviet authorities can apply arbitrarily the "national security" or "state secrets" restrictions as grounds for refusing exit visas. Sometimes persons are refused because of "access to state secrets" when coworkers with equal "access" are granted exit permits. For example, Leonid Pisman, a colleague of scientist Benjamin Levich, was allowed to emigrate, while Levich has been refused for 5 years. Prof. Ilya Goldenfeld was Valery Kislik's superior at their enterprise in Kiev; Goldenfeld has emigrated to Israel, while Kislik is considered a "security risk."

Persons who have not had access to any classified information are being declared security risks. Others, who, at one time, might have been legitimately considered security risks, are denied exit permission although their involvement with classified work ended long ago.⁴² Daniel Fradkin of Leningrad has done no classified work for over 12 years and yet, due to this work he has been denied permission to emigrate.

Service in the armed forces is another ground given for denying an applicant an exit visa since the Soviets regard any military service as exposure to military secrets. Thus, Col. Lev Ovshishcher of Minsk has been refused since 1971 because of his past military service which ended in 1961, and Aron Buchman of Kiev is unable to join his father in the United States because of his service in the army as a private from 1963-67. Although, according to the Soviet Minister of Internal Affairs, Nikolai Shehelokov,⁴³ the length of the period of declassification is at most 5 years, there are dozens of instances of much longer waiting periods.

Especially arbitrary is another very frequently given reason—"considerations of the regime" or "not in the state's interest." How far these justifications coincide with "state security" is unknown. This vague formulation keeps the applicant totally baffled as to what burden he is required to shed before he can receive approval from the authorities.

Since the signing of the Final Act, Soviet authorities have begun to cite a new, double-edged restriction on emigration: family reunification. While making family reunification the *only* recognized justification for emigration, the authorities have also arrogated to themselves the decision as to which relatives constitute a family in need of reunification. According to a report by Jewish activists dated September 1976, Vladimir Obidin, the head of OVIR, was quoted as saying:

We are now putting a stop to all arbitrary emigration. In accordance with the decisions of the agreement at Helsinki, we shall let people go only where it is for reunification of families, and a family, in accordance with the Code on Marriage and Family of the U.S.S.R. consists only of husbands, wives and their unmarried children.⁴⁴

Thus, family reunification is now considered the only legitimate ground for leaving the country and the Soviet authorities determine which relatives one may rejoin. Refusals based on "insufficient close-

⁴¹ Draft Report, op. cit., p. 6.

⁴² Andrei Sakharov was refused permission in December 1975, to travel to Sweden to accept the Nobel Peace Prize on this pretext.

⁴³ Draft Report, op. cit., p. 6.

⁴⁴ Contrary to Obidin's statement, the Code on Marriage and Family, in art. 21, specifically mentions other family members such as grandparents, brothers, and sisters.

ness of relatives" are now common. In an interview published January 23, 1977, Obidin discussed two cases in which applicants sought permission to rejoin relatives in Israel. Both cases, that of Boris Chernobytsky and Arkady Polischuk, were dismissed by Obidin because the would-be emigrants would be leaving some family members behind.⁴⁶ In another case, Victor Gurevich was denied an exit visa in 1976 because "his mother-in-law was not planning to leave the Soviet Union."

The arbitrary application of the family reunification policy is also illustrated by the 1977 decision of OVIR officials in Moscow to grant an exit visa to Aida Khemeleva—after previous denials—while continuing to refuse one to her husband, photographer Vladimir Sitchev. Ms. Khemeleva has decided not to leave the U.S.S.R. without her spouse. According to an appeal signed by 38 Jewish activists, these and other examples—

illustrate the unprecedented government interference into the family sphere of its citizens. It also illustrates the usurpation of the right to decide with whom and why citizens should create and maintain the family.

Even in cases of family reunification—using Obidin's restrictive definition—examples of noncompliance abound. Iosif Ass of Moscow has been refused permission to emigrate four times, although all members of his family are outside the U.S.S.R. Anatol Michelson, a U.S. citizen since 1969, has been separated from his wife and daughter for 20 years. Mrs. Michelson, a Moscow resident, is elderly, nearly blind and Mr. Michelson, suffering from a deteriorating heart condition, is in need of open heart surgery. Yet, notwithstanding the pledge to give priority treatment to cases involving illness, the Michelsons recently received another refusal. Vladimir Lazaris of Moscow has sought unsuccessfully since 1974 to rejoin his wife and ill child in Israel. Felix Aranovich's mother, brother, wife, and infant son live in Chicago and yet he has been unable to secure an exit visa to join them. In a Catch-22 situation, the grown sons of Moscow residents Vladimir Slepak and Aleksandr Lerner were both denied visas to rejoin family members abroad because their parents were not accompanying them and their departure would constitute a "division of families." Ironically, both sets of parents have been trying to emigrate, the Slepaks for nearly 8 years and the Lerner for 6 years and are continually denied this right.

For those refused exit visas, known in the U.S.S.R. as "refuseniks", life in the limbo period until, and if, permission is received, can be grim. Despite Final Act assurances that "an application will not modify the rights and obligations of the applicant or of members of his family," as stated previously, many applicants are dismissed from their jobs, and in other instances, they are demoted and their salaries decreased. The Commission has, in its files, dozens of such illustrations. Those dismissed from their jobs often cannot find new employment and can then be charged, under articles 209/1 of the Criminal Code of the RSFSR, with "parasitism." Recently in June 1977, Iosif Begun, a Moscow refusenik since 1971 who lost his job in 1972, was convicted and sentenced to 2 years internal exile under this provision.

An applicant or the child of an applicant who attends a university is frequently expelled. They are advised that the application for an

⁴⁶ Vladimir Obidin, *Izvestia*, Jan. 23, 1977.

exit visa is "behavior not befitting a Soviet citizen." On occasion, the granting of academic degrees already earned have been delayed or deferred indefinitely.

Scientists and technically trained persons who have applied for exit visas are prevented from participating in academic conferences and seminars, sometimes of the most informal kind. In this way, their skills and knowledge are significantly impaired and their potential for future employment is seriously reduced.

In certain areas of the U.S.S.R., applicants have been required to surrender their apartments, even before obtaining exit permission.

There are innumerable instances of applicants or the sons of applicants suddenly being drafted into the military. Previously these persons had been exempted from military service on grounds of health, age, or university attendance. Such exemptions are arbitrarily terminated. Once in the military, the draftee can then be considered exposed to "state secrets," an unsought status which has the effect of seriously jeopardizing his prospects for future emigration.

While nearly two-fifths of the Commission's sample reported that their application to emigrate resulted in no harassment, 35 percent said they had been dismissed from work, 8 percent were forced out of their homes, 5 percent were compelled to divorce in order to obtain exit permission and 9 percent said they were expelled from the institutions where they were studying.

For those fortunate to receive a positive reply to their exit visa application, and leaving for permanent residence abroad, life can be hectic. Usually, no more than a month is allowed for departure. During that time the applicant must submit additional documents to OVIR, get the visa, pack and send his belongings through customs.

The additional documents required are the passport, military card, work record, trade union card, certificate of absence of any financial claims by the housing office about the apartment being vacated, and the receipt for payment of 270 *rubles* for "official registration of the visa" and an additional 500 *rubles*, in cases of emigration to Israel, for the mandatory "renunciation of citizenship."

An applicant can spend about 2 weeks getting a work record from his place of employment, since regulations state that a person who leaves his job must give 2 weeks notice. One may take from the U.S.S.R. only specially registered and notarized copies of documents and not the originals; thus, 3 to 4 days are necessary to obtain the copies of the other required documents. The certificate from the housing office is given only after payment is made for future repairs of the vacated apartment. People who live in cooperative housing face additional obstacles—by regulation the money they paid for the apartment can be returned only 3 months after it is occupied by new tenants. Often these applicants have no other money to pay for visas since their major savings were invested in the co-ops.

The exit visa is the document necessary for the exchange of money, getting tickets, obtaining special "international" certificates of marriage, birth and death of relatives, and finally for sending baggage. To accomplish this often takes close to 2 weeks, yet customs officials often refuse to accept goods in the final days for an exit visa's validity. Those who live in the provinces must spend their time going to Moscow, as the exchange of money and registration of transit to Austria can be arranged only in Moscow.

For each member of the family, 90 *rubles* may be exchanged. Savings may not be transferred abroad. Six months' worth of one's pension may be collected before leaving but not once the emigrant reaches the West. Personal property which may be taken abroad is limited by the usual U.S.S.R. customs rules. Essentially only household items are permitted. For those who leave for permanent residence in capitalist countries, there is a rule that new items may not exceed 250 *rubles* in cost and more expensive items must have belonged to an individual for over a year (this must be documented). Furniture, no matter what the price, must have been owned by the applicant for over a year.

At the border towns of Brest and Chop, through which all emigrants who leave by train must travel, Soviet customs officials confiscate those things they do not allow to be taken abroad. Each adult is allowed one wedding ring of gold and one piece of jewelry, the price of which may not exceed 250 *rubles*. Each adult may also take 200 grams of silver items. Nearly two-thirds—65 percent—of the Commission survey reported being treated “incorrectly” by customs officials or border guards as they departed the U.S.S.R. Forty-eight percent said they were stripped naked at the border before being permitted to pass, and 32 percent claimed they had had personal belongings confiscated on departure.

The total expense connected with departure for permanent foreign residence can be about 1,500 *rubles* per adult in a family—the equivalent of an average yearly wage. Those expenses include 300 *rubles* for the exit visa, 500 for “renunciation of citizenship” in cases of emigration to Israel, about 200 *rubles* for fare to Vienna, up to 100 *rubles* for repair of an apartment and the trips to Moscow, 90 *rubles* exchanged into Western currency, and the rest for shipping baggage to Vienna or Israel.

Unfortunately, receiving permission or even an exit visa does not provide any assurance of a successful departure. There have been cases of cancellation of the exit visa's validity at every step, even while getting on the plane or train. The Metke family of Latvia was given permission to join a sister in the Federal Republic of Germany. At the very last minute, their visas were canceled and they found themselves without any place to live and with no money.⁴⁶ Another case involved Amner Zavurov, an Uzbek Jew, who along with his brother Amnon, was given permission to emigrate to Israel in August 1975. According to reports in the American press, they had to relinquish their internal passports, which serve as identity papers, in order to receive their exit visas. The visas were valid until October 2, but customs officials, unable to process their belongings in time, told them to return October 3 and that their visas would be extended. However, their visas were not extended and thus the two were left without internal passports. Amner was arrested, tried, and sentenced to 3 years in prison on January 13, 1977, for failing to have an internal passport—which the authorities would not return unless he withdrew his emigration application—and for failure to get a job—which he could not do without a passport.⁴⁷

Although instances such as these are the exception rather than the rule, that they should occur at all is distressing.

⁴⁶ “Helsinki Monitors Reports,” op. cit., vol. II, p. 45.

⁴⁷ David Shipler. “Uzbek Jew, Deprived of Passport, Gets 3 Years for Not Having One,” *The New York Times*, Jan. 14, 1977.

Conclusion

As evidenced by the illustrations above, the U.S.S.R.'s record of compliance with the family reunification provisions of the Final Act is seriously wanting. Although Soviet regulations, since August 1975, have been marginally modified, it is clear that the two key commitments, to deal in a "positive and humanitarian spirit" with applications for family reunification and to prevent such applications from "modify(ing) the rights and obligations of the applicant" are, at best, ignored and, in fact, often arbitrarily violated.

Soviet authorities claim that nearly all those who apply to emigrate are allowed to do so. According to the All-Union OVIR Chief, Vladimir S. Obidin, "Over the last 5 years, out of the total number of persons who have submitted applications to emigrate, 98.4 percent have been allowed to do so."⁴⁸ The Commission has no grounds to dispute this claim, since there are no means available to measure the number of applications. However, the number of *vyzovs*—certified invitations for family reunification—sent from Israelis to their relatives in the U.S.S.R. seriously challenges the Soviets' contention. According to official Israeli figures, the invitations sent as of August, 1976, outnumbered exit visas granted by 175,000. More recent statistics indicate that at the end of 1976, 186,419 Soviet Jews had requested and been sent invitations by their relatives but had not yet succeeded in rejoining them. In 1976 alone, the number of invitations sent exceeded the number of exit visas granted by 21,966. These figures do not include renewals of invitations which had expired.⁴⁹

Whether each person sent an invitation actually made an application to leave is unknown. Some may have never received the *vyzov*, others may have been unable to compile all the necessary documentation, while still others may have been deterred from applying after witnessing the harassment and intimidation to which applicants are sometimes subjected. While 14,310 Soviet Jews were allowed to rejoin relatives in 1976, it seems unlikely that nearly 22,000 persons, who had expressed interest in emigration by requesting *vyzovs*, never made an application.

Soviet Jewish emigration to Israel continues to be the most acceptable method to leave the U.S.S.R. although, as demonstrated above, it is by no means easy. Emigration of Soviet Jews, significantly below the 1973 figure of 35,000, has leveled off at about 1,000–1,200 a month, with little change in this figure since August 1975.

The other major group of tolerated Soviet emigrants involves ethnic Germans seeking to be reunited with relatives in the Federal Republic of Germany. Reports from West Germany indicate that the number of ethnic Germans allowed to leave the U.S.S.R. has risen since Helsinki from 5,800 in 1975 to 9,600 in 1976. Despite this increase, some Germans are still unable to leave the Soviet Union as evidenced by a protest demonstration held in Moscow in May 1977 by German "refuseniks."

Emigration of Soviets to the United States has also increased, although it remains relatively small in comparison to emigration to Israel and Germany. In 1976, 2,574 persons were allowed to join relatives here, more than double the 1975 figure of 1,162. However, 69

⁴⁸ Vladimir Obidin, *Izvestia*, Jan. 23, 1977.

⁴⁹ Draft Report, op. cit., p. 3.

percent of the 1976 total was comprised of ethnic Armenians who were originally petitioning for emigration to Lebanon. Soviet issuance of exit visas for the United States to other ethnic groups has not increased significantly since the CSCE summit. In fact, the Commission has received reports that Soviets seeking to emigrate to either the United States or other Western nations, whether for family reunification or not, have been compelled by Soviet authorities to leave the U.S.S.R. under the pretext of being reunited with relatives in Israel.

As of June 1977, the United States had 127 cases of divided families involving 359 individuals still pending with the Soviet Union. The rate of resolution of these cases has improved slightly in recent months but the U.S.S.R. remains adamant on cases involving "illegal" emigrants.

Two years later, it is evident that the U.S.S.R.'s signature of the Final Act has not prompted the Soviet Union to alter drastically either its laws or its practices regarding family reunification. Rather than a "positive and humanitarian" spirit prevailing, emigration decisions continue to be arbitrary and capricious. In addition, many applicants experience punitive and discriminatory measures designed to discourage others from applying. Aside from being in direct contravention of the Final Act, the Universal Declaration and the International Covenant on Human Rights, these practices contradict the words of the founder of the Soviet state, Vladimir Ilich Lenin, "... the Party demands first and foremost: ... abolition of passports, full freedom of movement and residence."⁵⁰

Contacts and regular meetings on the basis of family ties

The Final Act contains, in the human contacts section of Basket III, specific provisions meant to promote travel for the purposes of family visits:

The participating states will favorably consider applications for travel with the purpose of allowing persons to enter or leave their territory temporarily, and on a regular basis if desired, in order to visit members of their families.

Moreover, the Final Act states that these applications "will be dealt with without distinction as to the country of origin or destination..." The signatories pledged to prepare and issue the necessary travel documents "within reasonable time limits" and give priority treatment to urgent cases involving illness or death. As with applications for family reunification, the rights and obligations of the applicant and his family are not to be restricted.

The record of compliance with the family visit provisions of the Final Act is difficult to ascertain. Public knowledge of and attention to this portion of Basket III has been much less than that given to the family reunification provisions. As a result, the amount of information available for a statistical measurement of compliance is limited. Many individuals are reluctant to "go public" even by informing their own governments of efforts to arrange visits with their families. In spite of this reluctance, however, certain cases which have come to the attention of the Commission illustrate the problems which still exist.

Although the issuance of Soviet exit visas for private visits, including family visits, to the United States rose by 40 percent from 1,184

⁵⁰ Vladimir Ilich Lenin, "Draft and Explanation of Programme for the Social-Democratic Party" 2 Collected Works, p. 97, third edition (1923-37) as cited in Toman, Jiri, "The Right to Leave and to Return in Eastern Europe," Israel Yearbook on Human Rights, vol. 5, 1975.

in 1975 to 1,654 in 1976, Soviet policy on family visits continued to be restrictive and far below the objectives set in the Final Act.²¹ Some families have continually been denied permission to visit relatives abroad, particularly when relatives in the West have left the U.S.S.R. "illegally." The world-renowned dancer, Rudolf Nureyev, who defected from the Soviet Union in 1961, has sought since that time to have his aged mother, sister, and niece visit him in the West. Despite repeated intercessions in the family's behalf by government officials from several nations, all efforts have failed. In May 1977, Nureyev, appearing before the Commission, said that his 73-year-old mother had told him, "Well, I guess I am too old now, and I probably will never see you."

Another similar case involves a U.S. citizen, Vladislav Krasnov who left the U.S.S.R. in 1962, and now teaches at Southern Methodist University in Texas. He invited his parents to visit him in 1971 and their application was rejected. Says Krasnov, "Encouraged by the Helsinki Accords of 1975 and by the talk of détente, I made another attempt and issued an invitation to my mother to visit us in Dallas during the summer of the Bicentennial year. In her letter of May 25, 1976, my mother informed me that her application was rejected by an unnamed 'lady boss' in the city of Perm with an oblique explanation that from 'our district' nobody has yet gone to 'such a country.'" Furthermore, Krasnov's mother, Ekaterina Ivanovna Krasnova, was reprimanded by a Ministry of Internal Affairs official for not "having brought your son up properly."

Elvyra Škopas, an Illinois resident, in 1976, invited her son, whom she has not seen for 33 years, to visit her from Lithuania. He, too, received a rejection of his application for a temporary exit visa. Seventy-year-old Arvids Plakans of Riga, Latvia, has, every year since 1967, tried unsuccessfully to obtain permission to visit his three sisters living in the United States. The Commission has, in its files, documentation of over 300 cases involving Ukrainians and other Soviet citizens who, although invited by their U.S. relatives, have been unable to visit them here. Scores of letters have been received by the Commission from family members with all too familiar, tragic stories of planned reunions thwarted by the actions of the Soviet authorities. Most of these cases involve relatives in the United States. It should be noted that West German reports indicate an upturn in the number of visas issued to Soviets for visits to relatives from 860 in 1975 to 1,180 in 1976.

On the basis of these illustrative examples, it is clear that problems still persist in the area of Soviet compliance with the family visit provisions of the Final Act. Although the dimensions are not clear, the fact that some individuals in the Warsaw Pact nations are unable—2 years after the Helsinki summit—to visit with their families is undeniable and disturbing.

Marriage between citizens of different states

Along with the broad pledges to facilitate the freer movement of peoples included in the human contacts section of Basket III, the Final Act signatories agreed, specifically, to ease the efforts of their citizens to marry one another and, once married, to live together: "The participating states will examine favorably and on the basis of humani-

²¹ "Second Semiannual Report," p. 28.

tarian considerations requests for exit and entry permits from persons who have decided to marry a citizen from another participating state." Furthermore, the applicable provisions of the family reunification section of the Final Act will apply, once the couple is married, "to enable them and the minor children of their marriage to transfer their permanent residence to a state in which either is normally a resident. . . ."

Marriage to a Soviet citizen presents a dual problem for most Westerners. The first involves getting a visa into the U.S.S.R. in order to arrange for and conclude the marriage. The second arises when, once married, the Soviet spouse seeks to emigrate to the West.

Although it is possible to travel to the Soviet Union on either a visitor's visa or a tourist visa, Soviet authorities seem to insist on a visitor's visa if marriage is the purpose of the visit. In order to marry a Soviet citizen, a foreigner must compile numerous documents, in his or her language and in Russian. These include a statement of intent to marry, indicating that any previous marriage has been terminated. Copies of birth certificates, photographs, evidence of financial stability such as letters from employers or bank statements are also necessary. For Americans, the State Department recommends useful supporting documents such as letters from community and religious leaders. These documents must be notarized by a state official, the Department of State and the Soviet Embassy. Some are then forwarded to the intended spouse for submission to the local Registry Office (ZAGS), while others are submitted to the Soviet Embassy. One must then complete several forms, supplied by the Soviet Embassy, and apply for a visitor's visa, which is available only to those visiting relatives. Among these documents must be a letter of invitation from the Soviet partner.

According to instructions distributed by the Soviet Embassy, it takes about 3 to 5 months to get a visa request answered, although the Commission has learned of cases when it has taken longer. For instance, Ms. Kelly Cherry, a U.S. citizen living in England, has been waiting over 11 months to receive a decision on her application, submitted September 3, 1976, to join her fiance in Riga.

The Soviet partner is notified of the decision, but not, apparently, the Western applicant. If a visitor's visa is granted, it is issued for a 2- to 3-month stay. In case of a refusal, a new application cannot be submitted until a year has expired. The Soviet Embassy advises that foreigners may apply instead for tourist visas and arrange to meet their fiances in a place included on the tourist route. This, however, is often unsuitable for marriage purposes, since a Soviet citizen may only be married in the city or town where he or she is a permanent registered resident. In addition, Soviet law states that 30 days must elapse between registration of the marriage and the ceremony itself with ZAGS reserving the right to extend the waiting period to 90 days. Thus a short-term tourist visa, valid for less than 30 days, is unsatisfactory. Often, the application for a tourist visa is also denied.

If the Westerner does receive a visa he must, once in the U.S.S.R., obtain a statement from the U.S. Embassy that there is no impediment to the marriage. This is always required by the local authorities. The U.S. Embassy provides a certificate in Russian stating that it is not aware of any obstacles to the marriage. ZAGS also requires documen-

tary proof in Russian of the legal termination of all previous marriages by either spouse. Many ZAGS, including the one in Moscow, require parents of a Soviet spouse to sign a statement indicating they are aware of their child's impending marriage to a foreigner.

The task of getting into the U.S.S.R. to be married is a formidable one. According to the instructions distributed by the Department of State:

The main hurdle is obtaining permission to go to the U.S.S.R. to be married.

Ms. Cathy Theimer, whose fiance was finally allowed to leave the U.S.S.R. in 1977 after a 6-year wait, told the Commission—

Where the Soviets are stopping Soviet-American relationships is not after the marriage. What they are doing is stopping the marriage, and since they do not recognize engagement as a legal relationship, this considerably weakens your case for family reunification.⁶²

The other major barrier to binational marriage cases involves the securing of an exit visa for the Soviet citizen to live in the West with his or her spouse.

Soviet performance in this regard appears to have improved somewhat since the signing of the Final Act. The average waiting time for Soviet spouses of American citizens to obtain exit visas declined from approximately 7 months in 1975 to about 4 months in 1976. In addition, the percentage of marriage cases resolved in 3 months or less rose from zero in 1974 to 40 percent in 1976.

Soviet practice, however, appears to distinguish between recently married individuals and spouses long separated. Cases involving long separations between Soviets and foreigners are often dealt with more severely. In many instances, the spouse may have departed the U.S.S.R. as a result of displacements associated with World War II. The case of Nadezhda Whitehead, a Soviet citizen and Moscow resident, is the longest standing, unresolved binational marriage case of which the Commission is aware. Mrs. Whitehead married K. G. Whitehead, a British citizen and member of the British military mission in the U.S.S.R. in Moscow in 1945, but was not permitted to leave the Soviet Union with him when World War II ended. Thirty-two years later, Mrs. Whitehead is still refused an exit visa to the United Kingdom. Arrested in 1948 and imprisoned until after Stalin's death, Mrs. Whitehead—like many other prisoners of that time—was fully rehabilitated. Her case has been raised with Soviet authorities countless times by the British diplomats and high-ranking British visitors to the Soviet Union. In a statement written in Moscow January 7, 1977, she says:

The fact of the matter is that certain security officials have been opposing my departure by every possible means, including totally invented pretexts, because they fear that my case may be used abroad for purposes of anti-Soviet propaganda.

Unfortunately, it is not only those married long ago who must face the prospects of separation. According to OVIR head V. S. Obidin—

Yet another reason for the emigration of . . . citizens is marriage to foreigners. Those who have wanted to do so have emigrated with their spouses to more than 100 countries of the world. At the same time, many Soviet citizens who are married to foreigners do not express any wish to leave the U.S.S.R., although they have every possibility to do so.⁶³

⁶² CSCE Hearings, Basket III, vol. I, p. 111.

⁶³ Vladimir Obidin, *Izvestia*, Jan. 23, 1977.

In contrast to this statement, Irina Astakhova McClellan of Moscow has sought, unsuccessfully, since 1974 to leave the U.S.S.R. to live with her husband in the United States. Woodford McClellan, a professor at the University of Virginia. Most recently, in January 1977, she was told that she had no chance of receiving an exit visa during all of 1977. Despite "every possibility" to join her spouse, Mrs. McClellan said, "Here I am like a prisoner even though I am free."⁵⁴ Testifying before the Commission, Professor McClellan refuted the reply "interference in internal affairs" which the U.S.S.R. sometimes invokes when governments or individuals seek the resolution of humanitarian cases. "I am not interfering in the internal affairs of the Soviet Union," he said, "they are interfering in my internal affairs by not letting my wife and stepdaughter out."⁵⁵

The problem of unresolved binational marriages cannot be measured in numbers. It may be that the majority of marriages takes place unhampered by any obstacles and result in the couples "living happily ever after" in the country of their choice. Most persons do not notify their governments or this Commission unless they hit a snag. Thus, the Commission knows of only eight pending cases of U.S. citizens married to Soviet citizens. It is extremely likely, however, that many Westerners wishing to wed Soviets are unable even to obtain the entry visas necessary for marriage.

Regardless of the numbers involved, it is for those problem cases, however few or many, that the Final Act provisions on marriage were designed. And it is with those in mind that the U.S.S.R.'s record of compliance must be reviewed.

Travel and tourism

Soviet citizens' opportunity for foreign travel and tourism is very restricted by comparison to the West. In 1975, 2.5 million Soviets were allowed to travel abroad,⁵⁶ while the number of U.S. travelers overseas, excluding Canada and Mexico, was 6,353,000 in the same year.⁵⁷

Soviet policy regarding travel distinguishes between socialist countries and capitalist or developing countries. While individual private tourism is normally very difficult, and admission to group tours is dispensed more as a privilege than a right, it is easier to obtain permission to travel to other Warsaw Pact countries than to the West. This ease is linked to the ideological loyalty of the particular country; thus permission to travel to Bulgaria is granted more often than to Romania or Yugoslavia. While Soviet authorities have indicated that over 4 million foreigners visited the U.S.S.R. and 3 million Soviet citizens traveled abroad in 1976, according to S. S. Nikitin, Chief of the U.S.S.R. State Foreign Tourism Administration, Intourist—

The biggest part of our tourist exchange is with fraternal socialist countries. It accounts for 60 percent of the visits to the U.S.S.R. by citizens from other countries and trips abroad by Soviet people.⁵⁸

Permissions to travel for official purposes or for individual, professional, state-approved purposes are not always difficult to obtain but

⁵⁴ Irina McClellan as quoted in Associated Press report, Jan. 5, 1977.

⁵⁵ CSCE Hearings, Basket III, vol. 1, p. 104.

⁵⁶ S. S. Nikitin, "International Tourism after the Helsinki Conference," Facts on Cultural Exchange, Novosti Press Agency Publishing House, 1976, p. 56.

⁵⁷ U.S. Bureau of Economic Analysis, "Survey of Current Business" as cited in "Statistical Abstract of the United States," Bureau of the Census, Department of Commerce, 1976.

⁵⁸ Nikitin, op. cit., p. 56.

also do not involve large numbers of people. Exit visas for travel for individual, professional reasons not sanctioned by the state are almost impossible to obtain. Andrei Sakharov, winner of the 1976 Nobel Peace Prize, was denied permission to travel from Moscow to Stockholm to receive his award in December, 1975—just as Alexander Solzhenitsyn and Boris Pasternak had been barred from attending Nobel Prize ceremonies in years past. Dr. Benor Gurfel, an econometrician from Tallin, Estonian SSR, who was recently allowed to emigrate, was denied permission to attend and deliver a paper at the International Conference on Econometrics held in August 1976 in Helsinki. Dr. Benjamin Levich, an electrochemist, Corresponding Member of the Soviet Academy of Sciences and a long-term “refusenik,” has been invited to be a visiting professor at the Massachusetts Institute of Technology, Ohio State University, California Institute of Technology, Oxford University, Pisa University in Italy, Trondheim University in Norway, and 13 other universities throughout the West. The Soviets adamantly refuse permission for the exit visa necessary for Dr. Levich to accept any of these positions. Dr. Sakharov’s wife, Elena Bonner, was permitted to travel to Italy for medical treatment in 1975, but her son, Efreim Yankelevich and his wife, have been refused permission to study in the United States where the Massachusetts Institute of Technology has offered them scholarships. They were granted instead, permission to join Yankelevich’s brother in Israel.

Other obstacles to travel by Soviet citizens in the West include the long and complex procedure outlined in the preceding section of this report on Soviet passport regulations, the very high cost of a passport (300 *rubles* which is equivalent to 2½ months average income as compared to 30 *rubles* for travel to Socialist countries), the small (90 *rubles*) currency allowance, and the unspoken but almost automatic requirement that a close family member stay behind as an assurance of the traveler’s return.

Foreign travel and tourism within the U.S.S.R. on the other hand, is welcomed and usually encouraged. “The Soviet Union”, according to Office of Visas and Registration (OVIR) Chief V. S. Obidin, “has become one of the most visited countries in the world. At the present time, we have tens of thousands of foreigners studying at educational establishments. Last year alone (1976), several hundreds of thousands of citizens of foreign states visited our country for business, trade, social and private purposes.”⁵⁸

However, foreign travelers to the U.S.S.R. are subject to extremely restrictive controls on their movement. Visas are granted for specific locations only, detailed itineraries must be submitted well in advance, and no departure from the itinerary is allowed. Tourists may have access to only about 135 towns and 130 connecting routes. In addition, the cost of hotels in the Soviet Union is high—individual Western tourists must pay 25–50 *rubles* a night for hotel rooms for which Soviets only pay 3–5 *rubles*.

Although the number of Soviet visitors to the United States has risen considerably since Helsinki, a comparison of figures of persons permitted to leave the U.S.S.R. for the United States with U.S. citizens allowed to enter the Soviet Union reflects Soviet attitudes toward

⁵⁸ Vladimir Obidin, *Izvestia*, Jan. 23, 1977.

freedom of movement for its own citizens. In 1976, according to Intourist, the official travel agency, 97,844 U.S. citizens visited the U.S.S.R. According to the State Department, only 2,231 Soviet citizens came to the United States in the same period.

Even though it is easier for Westerners to travel to the U.S.S.R. than for Soviet citizens to get permission to travel here, there are many instances when U.S. and other Western citizens were denied Soviet entry visas. A study mission of this Commission was refused entry into the U.S.S.R. in November 1976, as was Senator Richard Stone, a Commissioner, in February 1977.

A group of Norwegian parliamentarians was denied Soviet visas in March 1976. More recently, in May 1977, three trial attorneys, from France, Britain, and the United States were refused visas to visit jailed Soviet human rights activists, Aleksandr Ginzburg, Yuri Orlov, and Anatoly Shcharansky, and consult with them or their relatives on their legal defense.

An indication of serious noncompliance with the Final Act provisions regarding travel was the number of entry visas the Soviets denied in December 1976. At that time, a group of Soviet Jews planned to conduct a symposium entitled "Jewish Culture in the U.S.S.R." in Moscow. Ten Jewish scholars from the United States and Canada had made plans to deliver papers at and participate in the symposium, but were either refused visas or hotel accommodations. In addition, several other American Jews, some scholars and other tourists, who had planned to be in the U.S.S.R. in December, were refused visas, despite the fact that they had no intention of attending the symposium—some were not even aware of its existence.

In October 1976, three rabbis who were part of an interreligious delegation of 14 American Christian and Jewish leaders were denied visas to travel to the U.S.S.R. This denial was the third in 3 years for an interreligious group from the United States seeking entry into the Soviet Union.

Incidents involving American tourists in the U.S.S.R. were also disturbing. On two occasions a total of seven Americans were detained at Moscow airport and not allowed entry into the U.S.S.R., apparently for carrying religious artifacts. These actions occurred in spite of the specific confirmation in the Final Act that, "religious faiths . . . can . . . have contacts and meetings among themselves and exchange information."

Another area of apparent noncompliance involves the denial of Soviet entry visas to American scholars who sought to travel to the U.S.S.R. in order to conduct research or meet with Soviet colleagues. Along with the pledges to facilitate travel for professional reasons in the Human Contacts section of Basket III, the signatory states also expressed their intention, in the section on Cooperation and Exchanges in the Field of Education, to facilitate, "travel between the participating states by scholars, teachers and students for purpose of study, teaching and research as well as for improving knowledge of each other's educational cultural and scientific achievements." In several instances, those who had been denied visas had previously traveled to the U.S.S.R. without any unusual difficulty. In three cases, American applicants had the support and even invitations of various Soviet institutions. In the beginning of July 1976, Suzanne Massie, an expert

on Russian affairs was refused a visa to travel to Leningrad to work on a book commissioned by an American publisher for a project on Russian architecture endorsed by VAAP, the Soviet copyright office. In October 1976, the U.S.S.R. also denied a visa to Prof. Jeanne Kirkpatrick of Georgetown University. Professor Kirkpatrick, a political scientist, was to have analyzed the U.S. presidential election for Soviet citizens and journalists and had been invited by a number of Soviet institutions. In early November 1976, Prof. Daniel Field of Syracuse University, a specialist in 19th century Russian history, was denied a visa to accompany an official delegation from the American Historical Association. The AHA was going to hold official talks in Moscow with the Institute of History of the Soviet Academy of Sciences regarding an upcoming colloquium involving Soviet and American historians. The AHA, in reaction to the Soviet visa denial, canceled the trip. In December 1976, Father Walter Jaskiewicz, professor of Russian studies at Fordham University, was refused a visa in his capacity as leader of a 3-week study tour of the U.S.S.R.

Thus, it appears that in many cases the U.S.S.R. is not moving "gradually to simplify and to administer flexibly the procedures for exit and entry" in the area of personal or professional travel for either its own or foreign citizens.

BULGARIA

Laws and regulations

In order to leave Bulgaria, be it for travel or permanent residence abroad, the ordinary Bulgarian citizen is required to obtain a passport (diplomatic, official, regular, group, emigration, sailor's, travel slip, or laissez-passer), an exit visa (except when a passport is used for the first time), and a frontier control paper. Following the legal pattern observed in the other Socialist states, the issuance of these documents is controlled exclusively by the responsible state authorities and strict penalties are imposed for illegal movement outside the state's borders. The Law on Passports for Use Abroad of November 28, 1969, and its implementing decree of November 20, 1973, constitute the basic documents governing movement outside of Bulgaria.

Regular passports for visits or tourism may be obtained from the Passport Bureau of the Ministry of the Interior, or from the Director of the People's Council in certain instances. They are valid for a period up to 5 years, but may be used only in conjunction with the proper visa, which limits the time frame for the visit abroad. Together with the passport and visa application forms, the person wishing to travel abroad for a visit must present photographs, birth and marriage certificates, copies of his police record, and evidence of his military service. Though not stated in the law, the traveler also needs an affidavit of support from his relative abroad which guarantees that the relative will pay the expenses of the trip.

The law governing the procedures required for an emigration passport and visa is considerably more complex. Section 1, point 5 of the 1973 Regulation Concerning Implementation of the Law on Passports states that emigration passports are to be issued "to persons who emigrate from the People's Republic of Bulgaria and change their citizenship, with validity up to 1 year." In order to change one's citizenship, the prospective emigrant must request a release from Bulgarian

citizenship which requires a special appeal to the Ministry of Justice presented with the following documents: an application form, photograph, birth and marriage certificates, a certificate of criminal record, documents certifying that the applicant has paid all state taxes, that he has no obligations to the state, that he owes no money to the banks or judicial authorities, that he is not under criminal investigation, that he has fulfilled his military obligations and that he has paid all his educational loans.⁶⁰ But, as stated in section 17 of the Law on Citizenship: "No release from Bulgarian citizenship shall be allowed irrespective of the conditions prescribed in the previous paragraphs if this is in the interest of the security of the country or on the ground of other important considerations." The Ministry of Justice's decision may not be appealed, but the applicant may reapply within 2 months.

A similar procedure must be followed in order to obtain an exit visa for emigration. Section 33 of the 1973 Implementing Regulation states that the following documents must be presented to the Ministry of the Interior: a passport, military service booklet, border control slip, a certificate that the applicant is not under criminal prosecution, a certificate that he is not indebted to any agency, a certificate of criminal record, a certificate of his state obligations, and a certificate from the Department of Pensions and Social Welfare that his pension will be discontinued.

The prospective emigrant must also pay comparatively high fees for the emigration passport: 50 *leva* for an individual immigrating to a Socialist country, 70 *leva* for a family; 150 *leva* for an individual immigrating to a capitalist nation, and 250 *leva* for a family. (Average monthly income is about 200 *leva*.) In addition, most of the documents that need to be presented require separate fees and taxes.

Final decisions on the granting of passports, exit permits, and other required documents are made by the issuing agencies. Passports, according to section 7 of the Law on Foreign Passports, "may not be issued to": minors who have not obtained written consent from their parents or guardians; persons against whom legal proceedings are pending; persons who have not guaranteed their alimony payments; and "persons whose travel abroad does not suit the interests of the State or who, in staying abroad, have degraded the dignity of the People's Republic of Bulgaria." The laws do not mention the citizen's right to appeal denials or the authorities' necessity to justify those denials.

Penalties against those who do not abide by the regulations governing exit are, as in most Socialist states, particularly stringent. The Criminal Code of April 2, 1968, categorizes such actions under the heading of "Crimes Against the People's Republic. Subchapter Two. Treason and Espionage." Section 279 of the chapter states that "whoever enters or leaves the country by crossing the border without permission of the proper government authorities, or even with permission but not at checkpoints designated for that (purpose), shall be punished by deprivation of liberty for up to 5 years and by a fine of up to 3,000 *leva*. The court may also decree mandatory resettlement." Those who stay abroad 3 months longer than their travel documents permit may be imprisoned for up to 3 years and fined up to 2,000 *leva*.

⁶⁰ Bulgarian Law on Citizenship, Oct. 8, 1968, as translated by Dr. Ivan Sipkov, "International Legal Materials."

Process and practices

Bulgaria's practices in the granting of exit documents are much the same as its laws, and few steps have been taken since the signing of the Final Act to meet the signatories' pledge "gradually to simplify and to administer flexibly the procedures for exit and entry." The application process is extensive and complex; information on the details of that process is not widely available; decisions are left to the discretion of the authorities who apply restrictive policies against those who wish to leave, particularly to visit or be reunited with families in the West who left Bulgaria illegally; application fees are high; delays are often long. Positive developments since August 1975 are that Bulgaria has recently softened its policies regarding long-standing family reunification cases with the United States. According to official testimony given to the Commission:

Following a series of representations made here and in Sofia, we received high-level assurances from the Bulgarian government in the spring of 1976 that our pending divided family cases would be resolved. As of February 16 of this year, the Bulgarian authorities had resolved favorably 24 divided family cases, involving 27 individuals, since Helsinki. This constitutes a significant improvement over the 12 months immediately prior to the CSCE meeting, when only two such cases were resolved.⁶¹

In February [1977] Bulgarian officials informed our Embassy that they had reviewed all divided family cases with the United States of which they had knowledge. They stated that all the persons had been granted permission to travel to the United States except for two cases which were still pending. We have since noticed a tendency to resolve family reunification cases more quickly.⁶²

As of June 1977, according to State Department records, 14 U.S. family reunification cases were pending with Bulgaria.

Several Western countries have reported, however, that since 1976, Bulgarian citizens are being denied access to foreign embassies unless they have received prior permission. Only the Bulgarian authorities, according to the reports, may contact the embassies concerned in order to obtain the visa for the citizen who wishes to travel. Since January 1976, Bulgaria has also abolished its visa-free regime for Western tourists, and non-Warsaw Pact visitors now need visas to enter the country.

CZECHOSLOVAKIA

Laws and regulations

Section 31 of the Czechoslovak Constitution of 1960 clearly states that "Inviolability of the home, the privacy of the mails and other forms of communication, as well as the freedom of movement, shall be guaranteed." In addition, on March 23, 1976, the International Covenant on Civil and Political Rights, guaranteeing the right of any citizen "to leave any country, including his own, and to return", became part of the Czechoslovak legal code.

Freedom of movement is not, however, guaranteed either by the laws or implementing decrees governing movement outside of the Czechoslovak borders; Czechoslovak laws and decrees serve only to guarantee the state's control over that freedom of movement. The Law on Travel Documents of June 18, 1965, supplanting the 1922 law on emigration, provides the limited legal framework for movement outside the country, and the 1970 decree of the Ministry of the Interior and the Ministry of Foreign Affairs details the regulations for implementing the 1965 law.

⁶¹ CSCE Hearings, Basket III, vol. I, pp. 81-82.

⁶² "Second Semiannual Report," p. 26.

Czechoslovak citizens "may" cross the state's borders, according to the law, "only with a Czechoslovak travel document," which must indicate the countries, number of trips, and "length of time for which it is valid."⁶³ While other types of travel documents may be used for nations that accept them (travel passes attached to identification cards) or for bordering countries (border zone passes), citizens traveling to Western states require a passport and accompanying exit permit in order to leave the country. Simple, special, official and diplomatic passports may be issued by either the Ministry of the Interior, the Ministry of Foreign Affairs, or the agencies authorized by them, and each must include a travel stamp provided by the passport and visa organs,⁶⁴ an exit permit stating "the countries, reason, number of times, and length of time for which it is valid,"⁶⁵ and a border pass which details again where the person is traveling and how long he will be abroad.

Czechoslovak legal regulations regarding travel and emigration differ somewhat from those of the other Socialist countries: whereas many of the Warsaw Pact states keep a tight grip over external movement through general laws that offer the responsible authorities considerable latitude in their decisions, the laws of the Prague government contains a somewhat more detailed set of provisions—restrictive in and of themselves.

The citizen (over 15 years of age) wishing to leave must file an application for both the passport and exit permit, and any changes in either; the passport and visa office of the Ministry of the Interior within the applicant's locality is authorized to decide on all applications for nonofficial travel. Several documents need to be presented together with the application form, according to Decree No. 44/1970: the applicant's identification card; the written consent of parents or guardians for minors; the consent of a student's academic institution, or of an employee's manager, or of "the local National Committee" [sic] for those who neither work nor study; the consent of the military authorities for all who are in the army, of draftable age, or on reserve duty; and any additional documentation the responsible authorities feel they need. All these documents must be dated no more than 30 days before the application is filed.

The most serious restrictions on those wishing to leave Czechoslovakia are enumerated in section 4 of the 1965 Law on Travel Documents and in the 1969 Government decree which further outlines "the cases in which the issuance of a travel document may be refused." The 1965 Law states that:

(1) Issuance of a travel document may be refused to citizens: (a) whose travel abroad would not be in conformity with the interests of the country; (b) against whom a criminal proceeding is pending; (c) who were convicted for a criminal act, unless they are no longer deemed to be convicted or their conviction has been expunged; (d) who, while abroad, have harmed the good reputation of the Czechoslovak Socialist Republic.

Section 1(a) could be interpreted to cover any refusal, but the Government issued a more detailed decree in 1969:

The issuance of a travel document may be refused to citizens if the travel abroad is contrary to the protection of state security, the internal order, and

⁶³ Czechoslovak Law on Travel Documents, June 18, 1965, section I, as translated by Dr. Alois Bohmer, "Freedom of Movement and Travel Under the Laws of the Czechoslovak Socialist Republic," European Law Division, Law Library, Library of Congress, March 1977.

⁶⁴ Decree of the Ministry of the Interior and the Ministry of Foreign Affairs (Czechoslovakia), Apr. 13, 1970, sec. III(2), as cited in *Ibid*.

⁶⁵ *Ibid*, sec. VI (1).

public health or morals and, further, if the travel would be: (a) to countries not having diplomatic relations with the Czechoslovak Socialist Republic; (b) to visit a citizen of the CSR who has been living abroad without the permission of the Czechoslovak authorities; (c) made by a citizen against whom there is a judgment to enforce his duty to support his family, or to fulfill financial liability towards a state or socialist organization; (d) made by a citizen whose activity indicated that he intends to stay abroad after his permission expires; (e) not covered by foreign exchange; (f) without assurance of foreign exchange, except for trips to visit direct relatives, brothers and sisters, or a spouse, provided that such trips would not be excluded for reasons under subsections (a) to (d).⁶⁶

An exit permit may also be refused for the reasons stated above. The 1969 decree, very specific in outlining the restrictions on issuing travel documents, does not specify the procedures for issuing a refusal (whether supporting evidence needs to be supplied) or the recourse available to the refused applicant. It is up to the issuing authorities to determine whether the applicant's situation falls into one of the categories outlined in the decree. Law No. 71/1967, articles 53-59, relating to administrative procedures, does outline the general right of citizens "to make an appeal against the decision of the administrative organs" (article 53). That appeal must be made within 15 days to the same organ that issued the decision.

The penalties for leaving the country without a valid travel document or for remaining abroad longer than legally permitted can be as harsh as those for espionage or endangering a state secret. Section 109 of the Criminal Code, which classifies illegal departures as a crime against the Republic, sets the punishment for such actions as—

imprisonment for a term of 6 months to 5 years or by a reformatory measure or by forfeiture of his property.⁶⁷

Czechoslovak citizenship may also be revoked as a penalty for committing the aforementioned crime.⁶⁸ Section 112 of the Criminal Code also states that—

any Czechoslovak citizen or state resident of the Republic who damages the interests of the Republic by disseminating or making possible the dissemination abroad of a false report on the situation in the Republic, its international position or its foreign policy shall be punished by imprisonment for a term of up to three years or by forfeiture of property.

Process and practices

The restrictive statutes on issuing passports and exit visas are translated into an equally restrictive policy on travel and immigration to the West. Procedures for applying are long, cumbersome and bureaucratic: delays are frequent; refusals are common; and permission is often withheld until the pressure of high-level representations is felt. Until Czechoslovakia announced its amnesty on June 30, 1977, for those who left the country in 1968, the prospects for leaving were even more difficult when there was a family member involved who left the country illegally—which applies in a large number of family reunification cases. As Deputy Assistant Secretary of State Jack Armitage stated at the March 15 Commission hearing, "Czechoslovak policy on emigration also remains restrictive."⁶⁹ Anna Faltus of the Czechoslovak National Council testified in a similar vein.

⁶⁶ *Ibid.*, Czechoslovak Government Decree, Oct. 8, 1969, No. 114.

⁶⁷ *Ibid.*, Czechoslovak Criminal Code, Law of Nov. 19, 1961, No. 140, sec. CIX.

⁶⁸ *Ibid.*, Law of July 13, 1949, sec. VII (b) and (c).

⁶⁹ CSCE Hearings, Basket III, vol. I, p. 81.

Unfortunately, the continuous flow of information which we receive testifies to the fact that the Czechoslovak Government is not living up to the promises it made at Helsinki. The instances where permission to emigrate is granted are few and far between. And even though at the close of 1976, the Czechoslovak authorities allowed some children to join their parents who made their home abroad, hundreds of families are still waiting for a more humane attitude on the part of the Czechoslovak Government.⁷⁰

After an initially hardened attitude to some of the more difficult humanitarian cases and problems a few months after Helsinki, the Czechoslovak Government has indicated that it will view some of those problems more favorably and has already resolved most of its long-standing U.S. cases. Nevertheless, the difficulties in leaving the country have not been significantly eased.

As stipulated in the 1970 decree, a citizen wishing to leave Czechoslovakia must present an application for both a passport and an exit permit to the local passport and visa organ of the Ministry of Interior, together with an extensive collection of documents. In applying for a passport, the traveler must provide detailed information concerning his situation in Czechoslovakia, details of all family members in Czechoslovakia, of all his family abroad, of family members serving in the military or Ministry of the Interior, and whether the applicant has served in the armed forces. The passport application costs 10 Czechoslovak crowns and must be approved before a visa can be issued. It may, of course, be denied if an official of the passport and visa office believes one of the provisions of the Law on Travel Documents or the 1969 Government decree is applicable.

Travelers going abroad for a visit must obtain a traveler's exit visa and need to present, together with their application, an identification card, a passport, the applicant's police record, the approval of either the applicant's employer, school director, or "local National Committee," the approval of the military authorities, and either a foreign currency guarantee from the State Bank or an official invitation from relatives abroad pledging to pay for the costs of the trip. The authorization from the State Bank is usually the most difficult document to obtain: it is costly, may be applied for only once a year, and needs the approval of the Ministry of Interior. In addition, a Czechoslovak citizen may only convert \$11 per day, up to a maximum of \$220 [that amount had been raised from the previous \$9 per day, \$180 maximum]. Czechoslovak citizens may apply for travel visas once a year, although normally they are only granted once every 3 or 4 years. Travel to the West is limited to a 20-day period.

Travel of Czechoslovak citizens to countries of the West has shown some improvement since the signing of the Final Act, and the Prague government has recently been more sympathetic to requests of older persons to visit children who illegally immigrated to the West.

These visitors are mostly pensioners for whose return communist Czechoslovakia is not concerned. But even for those visitors there are special conditions that have to be met. The petitioners abroad have to fill out special forms . . . [The form for Canadians includes a question as to whether the petitioner is a member of any anti-Communist Czechoslovakian organization.]⁷¹

Applying for an emigration visa requires a more complex procedure: the applicant needs to include all the documents listed for a

⁷⁰ Ibid., p. 115.

⁷¹ Ibid., p. 203.

traveler's visa (except the foreign currency guarantee), as well as documents certifying that the applicant's dependents will be cared for, that the applicant has no debts to Czechoslovakian financial institutions, that his taxes and rent have been paid, that his property has been registered, and that he renounces all his fixed assets. He often has to pay for educational expenses incurred on his behalf by the state—expenses which vary with each individual. He also needs a curriculum vitae, detailed information about his family in Czechoslovakia and abroad, a list of all foreigners he has ever met, and the reasons he wishes to emigrate:

With delays artificially created by local, regional, State authorities, the stipulation that none of these documents be more than 30 days old at [the] time of application is almost impossible to meet.⁷²

"The District Passport Visa Office will accept the application only if the information given is legible and if all questions are answered and all required attachments enclosed" (translation of an official Czechoslovakian document), so any error or omission in the forms could serve as a reason for a refusal.

There is no stated time limit within which the District Passport and Visa officials have to respond to the request for either a passport or visa, so applicants may wait anywhere from a few weeks to several months. Most refusals, unlike other Warsaw Pact practices, are in writing and most cite the relevant legal provisions for refusing the request. A typical example:

According to the above referenced Public Law and par. 1 letter (b) of Government Ruling No. 114/69/Sb it does not concur with state's interest to permit our citizens to emigrate to join a Czechoslovak citizen who is staying abroad without the permission of the Czechoslovak authorities. And apart from that it does not concur with the state's interests to permit Czechoslovak citizens to emigrate into countries with which the Czechoslovak Socialist Republic has no diplomatic relations.

In assessing your application it was also determined that it is your fault your family is divided. The Czechoslovak authorities are interested in reuniting families on the soil of Czechoslovakia.⁷³

The applicant has the right to appeal negative decisions, in writing, within 15 days, to the Regional Passport and Visa Office. The Commission has received copies of several letters, however, where that right of appeal has been denied. If the decision of the District Office is upheld, the applicant may, in certain instances, appeal to the Passport and Visa Office of the Federal Ministry of the Interior in Prague, whose decisions are final. According to Anna Faltus:

In some cases, permission to emigrate has been denied repeatedly. Appeals were allowed with a chance of submitting a new application. This, however, resulted in another refusal that lead to another appeal and another application. The resulting merry-go-round presents great hardships for the people concerned. In several cases, permission to emigrate was refused by the highest authority with no further appeal permitted.⁷⁴

Although instances of psychological and physical harassments of those who apply to leave do not seem to be as commonplace in Czecho-

⁷² Ibid., p. 116.

⁷³ Translation of a decision by the Regional Passport and Visa Office, Ostrava. Although the decision was made in 1972, similar decisions have been issued in recent months.

⁷⁴ CSCE Hearings, Basket III, vol. I, p. 116.

slovakia as elsewhere, several instances of such harassment have been brought to the Commission's attention :

. . . since then everything seemed to go from bad to worse. Permission to emigrate was refused. The answer to their appeal stated that the processing of their cases will take a long time. Since then he was fired from his job on January 4, 1977, and on January 12, 1977, he was told by the military that he is committing a punishable crime—trying to avoid military service by emigrating—and that charges will be brought against him.⁷⁵

Younger people, or young families, who apply for permission to emigrate to join their parents or other close relatives abroad, are not only encountering difficulties, they actually become victims of reprisals—such as dismissal from a job and/or denial of higher education to their children.⁷⁶

According to the statistics on those being allowed out of Czechoslovakia to rejoin families or for visits, there has not been a startling improvement since CSCE, although recently the Czechoslovakians "have improved their record somewhat with the United States on family reunifications. Six individuals were granted exit permits from January to November of 1976 and our Embassy was informed by the Ministry of Foreign Affairs in November that 20 children would soon be allowed to emigrate to join their parents in the United States. Thus far in 1977, we are aware of eight individuals having received emigration passports. On March 2, we were informed of an additional case of a spouse and two children who will soon be allowed to emigrate."⁷⁷ While there still remain 43 U.S. divided family cases of which the Embassy in Prague is aware, the Czechoslovaks have indicated for the first time in months that they are willing to move on resolving at least some of these cases. They have, it seems from various reports available to the Commission, made similar gestures to other West European states with which they have had longstanding problem cases. The West Germans report that, while in 1974, 180 visas were issued to Czechoslovaks to rejoin their families in the FRG, 340 were issued in 1975 and 490 in 1976.⁷⁸

The most promising recent development is the Prague government's announcement that it will offer an amnesty to most of those who fled Czechoslovakia in 1968 after the Warsaw Pact invasion. The decision to "normalize relations" with these 75,000 Czechoslovaks should considerably ease the prospects of those present Czechoslovak citizens who wish to be reunified or to travel abroad to meet with relatives who had previously been considered "illegal emigrants."

So while Czechoslovak progress in realizing the promises made in the "Human Contacts" section of the Helsinki accord has been minimal, there is nonetheless some slight improvement to report: Czechoslovakia ratified the International Covenant on Civil and Political Rights and incorporated it into its legal system; the state authorities have been more generous in their issuance of exit visas to older persons to visit their children abroad; those traveling abroad may convert somewhat more Czechoslovak crowns into foreign currencies; there are indications that some of the children of parents who left or stayed out of the country illegally in 1968 and 1969 will be allowed to rejoin their parents after years of separation; and the recent amnesty announcement should lead to the resolution of a large num-

⁷⁵ Synopsis of a letter in the Commission's files from Peter Pole.

⁷⁶ CSCE Hearings, Basket III, vol. I, p. 116.

⁷⁷ *Ibid.*, p. 81.

⁷⁸ Information supplied by the FRG Embassy, at Commission request.

ber of other cases. This is minimal progress, however, as passport and visa application procedures remain lengthy, burdensome and frustrating. Laws and procedures remain extremely restrictive, with all rights over movement firmly in the hands of the state authorities. And too many children and parents are being forced to live apart by punitive practices directed at those who left their country. As one distraught mother whose daughter cannot leave Czechoslovakia to rejoin her in Canada wrote:

It would be a happy occasion if no one tried to prevent children from living with their parents and if no one tried to cut off the natural feelings of love between parents and children. . . . My daughter did not see her parents, her brother and sister for almost 9 years. Mother Gabriel has to learn English, so she can correspond with her children. Our daughter, held in Czechoslovakia against her will, also has to learn English, so she can correspond with her own sister. I am asking these questions in the name of my family and our daughter, Katerine, who is being held in Czechoslovakia against her will—despite many applications, many appeals and many tears—even though she decided of her own free will to take advantage of human rights—to live with her own parents, brother and sister.⁷⁹

GERMAN DEMOCRATIC REPUBLIC

Laws and regulations

While according to the GDR's Constitution, "every citizen of the German Democratic Republic has the right to move freely within the state territory of the German Democratic Republic",⁸⁰ the same right does not apply to citizens moving outside the state's territory. The guidelines and restrictions for issuing the necessary documents are outlined in the Passport Law of 1954 and its 12 implementing regulations.

An East German citizen needs a passport and an exit visa (unless he is traveling on a diplomatic passport) to leave the GDR's borders. Passports—diplomatic, service, travel, and residence permits—are issued by the Ministry of Foreign Affairs, the German People's Police, or the Ministry of Interior and their authorized agencies, and may be withdrawn or invalidated by those agencies. Passports are valid for a period of up to 10 years and require, in most cases, an exit visa attached to them which "may prescribe definite travel routes or travel destinations."⁸¹

Although the GDR's passport law and regulations are lengthy documents, there is very little in their provisions outlining the procedures and circumstances in which passports or visas may be granted or denied. There are no legal provisions stipulating who can or cannot receive a passport except that "The denial or revocation of a passport shall not require any justification. The same shall apply if the passport is issued, contrary to the request, with restrictions in regard to time or territory."⁸² A similar general directive applies to exit visas: "The denial or revocation of a visa or authorization entries shall not require a justification."⁸³

⁷⁹ Letter from Mrs. Stefania KuceraKova to Czechoslovak President Husak, a copy of which is in the Commission's files.

⁸⁰ GDR Constitution, October 1974, art. 32, as cited by Dr. William Solyom Fekete, "Freedom of Movement and Travel Under the Laws of the German Republic," European Law Division, Law Library, Library of Congress, February 1977.

⁸¹ *Ibid.*, Second Implementing Resolution to GDR-Passport Law, Sept. 16, 1963.

⁸² *Ibid.*, sec. IX.

⁸³ *Ibid.*, sec. XXII.

A 1972 implementing directive of the Ministry of the Interior is somewhat more specific on the issuance of a visa: for travel to non-Socialist countries and West Berlin, visas may be approved for "urgent family matters"; "at the invitation of relatives into non-Socialist states which recognize the traveling documents of the GDR," and "for citizens who have reached the legal retirement age or who are invalids"—and, in all cases, the applicant must secure his employer's written approval. "Departures may be approved one or more times for a total length of 1 month—for travel into states outside Europe up to 3 months—in any year." "Departure by automobile into non-Socialist states and West Berlin on urgent family matters may be approved."⁸⁴ The implications of this regulation are that only invalids, pensioners, or those traveling on urgent family matters or at the invitation of relatives, may secure the state's approval to travel to a non-Socialist country or West Berlin. There are no provisions for appealing a decision, for a time period within which decisions must be made, or other clauses to protect the applicant; full discretionary power is in the hands of the authorities.

Process and practices

The Berlin Wall best symbolizes the GDR's position on human contacts: East Germany, with its proximity to the borders and media of the West and its unique problems with West Germany, is particularly sensitive to increasing human contacts west of its borders. The Government therefore has maintained and continues to maintain strict policies and procedures regarding its citizens' movements to the West. Applying for a passport for either a family visit, family reunification, or travel is a time-consuming process, requiring the presentation of a large number of documents. Refusals are common. The practice in East Germany follows the mandate of the law: by and large, visits or emigration are permitted only to pensioners or to those in urgent situations. No reasons are given for passport denials. Those traveling can only exchange a limited amount of foreign currency and have to leave a close family member behind. Prospective emigrants often lose good jobs, are subject to peer pressure, and, despite the Final Act's specific provision for transport of "household and personal effects," may not take their personal effects with them once they do get permission to leave. A 1963 law prohibiting citizen's access to foreign embassies further complicates the application process; that law has not been strictly applied, but in 1977—until the Bonn government lodged strong protests—East German citizens were barred from the West German Embassy in East Berlin.

The East German authorities must approve all binational marriage requests, and their approach to those requests is generally to refuse them, unless considerable pressure is applied by Western governments. A couple has to wait, in most instances, from 6 months to 2 years before their request is approved.

The only changes in East German policy since CSCE actually began before the Helsinki Conference as a result of the GDR's basic treaty with the Federal Republic of Germany. West Germany reports that a larger number of cases involving East Germans who wish to travel or emigrate to the FRG are being resolved and that the procedures

⁸⁴ *Ibid.*, Directive on Regulations of Travel by Citizens of the GDR, Oct. 17, 1972.

for these travelers have become less cumbersome—the processing time has been shortened, and more distant relatives are receiving permission to leave. Because so many East Germans are now applying (close to 100,000 in 1976) and citing the Final Act in their applications, the East German government has most recently been taking a harder line on those requests.

In 1975 and 1976, over 10,000 Germans were allowed to leave the GDR annually for permanent resettlement in West Germany, compared with fewer than 8,000 in 1974. 1,300,000 pensioners were allowed to visit their families in the FRG annually in 1974, 1975, and 1976. The United States has had only a small number of family reunification or marriage cases with the GDR, and most of those are being favorably considered. As of June 1977, 26 U.S. family reunification cases were pending, and in March, a State Department official testified:

At the onset of diplomatic ties, we presented the German Democratic Republic with a list of 27 family and fiance reunification cases. Subsequently, most of these have been successfully concluded. At present, we have a total of 39 cases involving 56 individuals. Overall, we are pleased by the number of cases which have been resolved. However, in almost every case, bureaucratic delays have been the rule and quite a few of the individuals have endured varying degrees of harassment.

The latest figures from our Embassy in East Berlin indicate there may be a connection between Helsinki and the German Democratic Republic's handling of divided families. In the approximately 11 months between the establishment of U.S. relations with the German Democratic Republic and Helsinki, 12 individuals were permitted to emigrate from the German Democratic Republic to come to the United States. In the 19 months since then, 56 individuals have been able to join their families or prospective spouses here. Despite this progress, the German Democratic Republic's basic policy of restricting the migration of its citizens, whether to the United States, or elsewhere, remains unchanged.⁸⁵

HUNGARY

Laws and regulations

The basic law governing the issuance of exit documents from Hungary is Edict No. 4 (1970) of the Presidium of the Hungarian People's Republic on Passports which does stipulate that "every Hungarian citizen shall have the right to have a passport and to travel abroad, provided that he complies with the requirements set forth in the statutory provisions." Those statutory provisions, together with section 3(2) of the edict, limit and restrict that right, but do provide the applicant the right to appeal the authorities' decision and do set a well-defined standard to which the authorities are to conform.

According to the various implementing decrees on passports and fees, those wishing to leave the Hungarian People's Republic are required to obtain a passport and exit permit. Passports are generally valid for 5 years and include the personal data of the traveler and his minor children. Exit permits, included with the passport, stipulate the purpose and duration of the trip abroad.

Various passports—depending on the purpose of the travel abroad—are governed by different regulations. Private or group passports, issued by the office of the Chief Commissioner of Police for travel to non-Warsaw Pact countries, and by the district police commissioners for Warsaw Pact travel, "may be" issued to those traveling for tourist,

⁸⁵ CSCE Hearings, Basket III, vol. I, p. 81.

personal, family, medical, or professional reasons. "Generally," such travel is permitted once every 2 years in cases of a visit and once every 3 years for tourists, although exceptions may be made for urgent cases or cases where foreign currency may be secured.⁸⁶ "Generally," the traveler may remain 30 days in Europe and 90 days outside continental Europe.

Someone leaving Hungary to visit a relative abroad must have proof that "the financial means required for his stay abroad are secured by the inviting person" and those traveling as tourists must secure "the preliminary license of the foreign exchange authority for the purchase of foreign exchange."⁸⁷ Such a preliminary license may be granted once every 3 years and entitles the traveler to exchange \$140 in foreign currency for his whole trip. Private passport fees are 600 *forints* (approximately \$30) for passports with a foreign exchange authorization and 500 *forints* for one without the authorization.

Emigration passports, for those who wish to leave Hungary permanently and be released from Hungarian citizenship, and consular passports, for those who wish to leave permanently but maintain their Hungarian citizenship, "may be issued to a person who has completed the age of 55 years and wishes to depart for abroad for the purpose of living with his parent, child, or spouse, provided that he does not have any liability for support or for civil or public debts."⁸⁸ In "well founded cases," an exemption to the above restriction may be granted by the Minister of the Interior. Responsibility for issuing emigration passports lies exclusively with the Passport Division of the Ministry of the Interior.⁸⁹ In addition to the usual documents required in applying for all passports [see below], applicants for emigration or consular passports need to present "the preliminary visa of the recipient state, the invitation of the relative living abroad, as well as, in the case of a person liable to military service—the certificate of the military draft command."⁹⁰

The prospective emigrant also needs to secure "special border crossing permission" from the Passport Division 6 days before he is to leave. At this time he needs to present a document certifying that he has no public debts and that, if he is liable for the draft, he has surrendered his military papers to the authorities. The fees required for an emigration passport vary, depending on the country of destination: to Warsaw Pact countries, each individual over 16 years of age must pay 500 *forints*; to non-Warsaw Pact countries, the fees are 1,000 *forints* for an individual passport, 500 *forints* for a wife and child over 10 traveling with their family and 250 *forints* for each child under 10.⁹¹

Except in instances of official travel, the applicant must apply personally for all types of passports and present, together with his application: pictures, a biography, and the "recommendation" of the agency ordering the travel, the applicant's employer, the applicant's school,

⁸⁶ Hungarian Decree on Passports, No. 4/1970, sec. IX (3), as translated by Dr. William Solyom Fekete, "Legal Restrictions on Foreign Travel and Emigration in the Hungarian People's Republic," European Law Division, Law Library, Library of Congress, March 1977.

⁸⁷ *Ibid.*, Decree of the Hungarian Worker-Peasant Government on Passports, No. 4/1970, sec. IX (b) and (c).

⁸⁸ *Ibid.*, Decree No. 4/1970 on Passports, sec. XII (1).

⁸⁹ *Ibid.*, Decree No. 2/1970 on Implementation of Decree No. 4/1970 III 3, sec. I (1).

⁹⁰ *Ibid.*, sec. XIV (1).

⁹¹ *Ibid.*, Decree No. 11/1966 (VI 29) on Fees, sec. XCV.

the competent professional organization, or the competent military authorities.⁹²

Provisions applicable to petitioners for a passport shall be applied to the filing of a petition for an exit permit with the exception that the passport shall be submitted, with photographs and the biography shall not be required.⁹³

While every citizen theoretically has the "right" to a passport, passports "shall not be issued to a person whose stay abroad might impair or jeopardize the state or economic interests of the Hungarian People's Republic or other public interests."⁹⁴ Passports are also to be refused to an applicant:

(a) whose stay abroad will impair or jeopardize the internal or external security of the Hungarian People's Republic; (b) who wishes to travel to an organization or a person pursuing a hostile activity against a socialist state; (c) against whom a criminal proceeding is pending, or who is under the effect of a criminal sentence; (d) who is under police surveillance, or under the effect of banishment; (e) who wants to travel to a person staying abroad illegally, or whose parent, child, spouse (cohabitant), brother, or sister is staying abroad illegally; (f) whose expenses to stay abroad are not secured.⁹⁵

Section 6 of Decree No. 2/1970 delineates the time periods the authorizing agencies have to decide on the applicant's request: requests for service passports, border crossing certificates, and private and group passports for service-related travel must be acted upon within 14 days; private and group passports for visits and tourism, 30 days; border crossing permits, 14 days; and consular, emigration and repatriation certificates, 30 days. "In well founded cases . . . the petition for a passport may be adjudicated with special dispatch."⁹⁶

According to the same decree, "an appeal may be had" in cases where the applicant's request was denied (sec. 7(1)). The appeal must be submitted within 15 days of the denial, and it must be decided upon within 30 days by a different administrative organ than that which made the original decision. If the denial is upheld, the applicant is to be reimbursed for the fees he paid.

Those who leave the country or stay abroad without the sanction of the state are liable to prosecution for committing a "criminal act against public security and public order" and may be imprisoned from 1 to 5 years and may have their property confiscated.⁹⁷

As is evident from the brief description given above—

Hungarian legislation on passports is the most complete and detailed of its kind in the socialist countries. Very little room is left for internal instructions and decisions of the executive organs. . . . The completeness of the legislation gives citizens the possibility of following the procedure of decision-making on the issue of passports, and it also facilitates the possibility of appeal.⁹⁸

Process and practices

According to the second semiannual report of the President to the Commission, "while strict on paper, Hungarian emigration policy

⁹² *Ibid.*, Decree No. 2/1970, sec. III (5).

⁹³ *Ibid.*, sec. V (2).

⁹⁴ *Ibid.*, Decree No. 4/1970, sec. VI (2).

⁹⁵ *Ibid.*, sec. III.

⁹⁶ *Ibid.*, Decree No. 2/1970, sec. VI (2).

⁹⁷ *Ibid.*, Criminal Code, ch. XII, Law No. V, 1961, sec. CCIII.

⁹⁸ Jiri Toman, "The Right to Leave and to Return in Eastern Europe." *The Right to Leave and to Return* (Papers and recommendations of the International Colloquium Held in Uppsala, Sweden, June 19-20, 1972), the American Jewish Committee, 1976, p. 132.

has tended in practice to be relatively tolerant."⁹⁹ That statement holds true for its travel policies as well. There seem to be few procedural problems, except for occasional bureaucratic delays in obtaining a passport or exit permit. Judging from the comparatively large number of Hungarian citizens who are allowed to travel abroad and the comparatively small number of pending family reunification cases, passport denials are rare; applications are dealt with in a "positive and humanitarian spirit." The procedures in practice are much the same as they are spelled out in law, except that the authorities are more flexible in their decisions than the letter of the law would dictate. The only real obstacle to personal travel outside of Hungary is the foreign currency exchange restrictions, but these can be overcome if a relative will pay the expenses. Travel to Warsaw Pact countries is easier: passports are cheaper and the procedure is simpler.

Hungary also has a fairly liberal policy on family reunification. Applicants are not harassed and emigrants may take with them up to 20,000 *forints* worth of household goods per family head. In 1974, 144, in 1975, 112, and in the first half of 1976, 53 Hungarians entered the United States to rejoin their families. There was an increase in the numbers of Hungarians entering West Germany to be reunified with their family there: 30 entered in 1974, 40 in 1975, and 80 in 1976.¹

Occasionally, emigration passports are denied; since Helsinki, the U.S. Embassy has been aware of 17 such cases, 8 of which have since been resolved. In three of the remaining cases, applicants withdrew their applications. Six cases remain, which is a small number compared to most other East European countries. Marriage cases also do not seem to cause any outstanding difficulties.

Little change can be reported in Hungary's exit policies in the 2 years since Helsinki [except for lowering emigration passport fees from 1,500 to 1,000 *forints*] largely because so many of its policies and practices were already in conformity with the Final Act's provisions: fees are moderate; application renewals are reconsidered at reasonably short intervals; applications are processed quickly and generally favorably; applicants are not harassed. In many ways, Hungary's example serves as a good model for the way in which a state which only allows limited and controlled movement should, according to the Final Act, treat those of its citizens who wish to leave.

POLAND

Laws and regulations

"[All] citizen[s] have the right to obtain a passport if they submit the requisite documents and pay the passport fee due."² But, as with many rules, there follows an exception: under certain conditions, "The competent organ may depart from the rule defined in paragraph 1 and deny the passport."

⁹⁹ "Second Semiannual Report," p. 47.

¹ Information supplied by the FRG Embassy, at Commission request.

² Polish Law on Passports, June 17, 1959, ch. 2, art. 4 (11), as translated by Dr. Tadeusz Sadowski, "Freedom of Movement and Travel Under the Laws of the Polish People's Republic," European Law Division, Law Library, Library of Congress, March 1977.

The issuance of all travel documents is legally provided for by the 1959 Law on Passports and the 1976 regulation of the Ministers of Internal Affairs and Foreign Affairs Concerning Rules and Procedure As Well As Jurisdiction in Passport Matters, both of which are detailed and lengthy documents. All Polish citizens require a travel document to cross Polish borders and may be issued one out of four possible documents: a passport, consular passport, a passport insert to an identification card, or a travel document.

Passports, single or group, as well as passport inserts and travel documents, are issued by the provincial headquarters of the People's Militia and may be renewed every 2 years up to a 10-year period. Generally, a passport "authorizes a single entry to the countries listed therein," but exceptions may be made "in justified circumstances."³

In applying for the passport, passport insert, or travel document, a traveler must present in person: an application, certified and approved by the applicant's employer; two photographs; permission of one or both parents or guardians in the case of a minor; a certified invitation from the person the applicant is visiting, "if such an invitation is required," together with "the obligation to cover all the expenses of the stay abroad," and the approval of the competent military authorities if the applicant is in or eligible for military service.⁴ In addition, "the competent organ may make the issuance of a passport dependent on the fulfillment by a person applying for the passport of his obligations to the state or to a unit of the socialist economy."⁵

Prospective emigrants must present additional documentation before they can collect their passports, including a promise from the embassy concerned that an entry visa will be granted, a military identification card, and certificates verifying that the applicant's work has been terminated, that he has no outstanding tax obligations, and that his dwelling has been transferred to the state administration.⁶ Those over the age of 18 applying for emigration passports must also include a certificate from the military authorities concerning their military status.

Those applying for group passports must obtain the recommendation of a government office, trade union and social organization, as well as either the permission of the National Bank to purchase the required foreign currencies or an invitation from abroad promising that the group's expenses will be covered.

The fees connected with passport issuance are: 2,000 *zlotys* for a tourist passport, 3,000 *zlotys* for an emigration passport to Warsaw Pact nations and 5,000 to other countries (1,000 *zlotys* is the average monthly salary of a blue collar worker). All travel documents must be returned to the competent organs within a week after the traveler returns from abroad.

Consular passport books are issued to Polish citizens who have permanent residence abroad and may be used for reentry into Poland. To obtain a consular passport book, the applicant must present his cer-

³ *Ibid.*, Law on Passports, 1959, art. 7 (1) and (2).

⁴ *Ibid.*, Regulation on Passport Matters, 1976, ch. 2, 2.1.

⁵ *Ibid.*, Law on Passports, 1959, art. 5 (1).

⁶ *Ibid.*, Regulations on Passport Matters 1976, sec. 3.2 (1)-(5).

tificate of Polish citizenship, birth certificate, document confirming his permanent residence abroad, and other documents similar to those for an emigration passport.⁷

The right to a passport may be denied in cases where there are criminal proceedings pending, where "important social considerations exist," where the applicant has violated existing passport regulations, where "the applicant while abroad has carried out activities detrimental to the interests of the Polish People's Republic or by his conduct has jeopardized the good name of Poland," or where "other important state considerations exist."⁸ Further, "The decision whether or not the impediments mentioned in paragraph 2 exist rests with organs competent to issue passports."⁹ For those denying the request, "it shall be sufficient to refer to the legal basis for the refusal." The decision must include information on the right of appeal, the organ to which and the time period within which the appeal should be filed. The Passport Bureau of the Ministry of Internal Affairs decides on appeals for denials made by the People's Militia. One interesting difference between the 1976 regulations and the 1967 regulations which they replaced is that the previous regulations provided greater detail on the applicant's right of appeal and the authorities' responsibilities in that regard.

Process and practices

The complexity and costs of the application process as delineated in Polish laws are serious obstacles to the prospective traveler or emigrant. Poland is also faced with the problem of a particularly large number of family reunification cases with almost all Western countries, particularly the FRG and the United States, because such a large number of former Polish citizens living abroad can lay claim to close and distant relatives in Poland. The Polish government, anxious to stem what it regards as "economically motivated" emigration, has adopted a generally restrictive attitude on family reunification, except for cases involving Poland's German minority, on whose behalf a special bilateral agreement with the FRG was adopted at the Helsinki summit. Refusals of other requests for emigration passports are frequent, and embassy representations are often fruitless.

The procedural difficulties encountered by most applicants usually entail long lines and delays when trying to obtain the extensive documentation required before a passport is issued. The rather high costs of a passport may be a problem, although not often a prohibitive one. Arbitrary actions and decisions by local officials have also been cited as causing further frustrations. In deciding whether to issue emigration documents, the Polish Government tends to base its decisions on a narrow definition of family, excluding, among others, siblings and adult children, and tends to be less favorably disposed to granting exit documents to those with professional skills or to those reuniting with family members who left illegally. Refusals are almost as frequent as approvals: in the first half of 1976, 484 family reunification requests to the United States were denied, while 691 were approved. There have been few complaints of applicants being harassed after

⁷ *Ibid.*, art. 6.1-2.

⁸ *Ibid.*, Law on Passports, 1959, ch. 2, art. 4.2.

⁹ *Ibid.*, ch. 2, art. 4.4.

they apply, and most emigrants are able to bring their valuables with them. Binational marriage cases are spared one common bureaucratic hurdle: neither spouse needs permission from the authorities to marry.

One considerable restriction is that of foreign currency exchange, so the traveler more often than not has to have his expenses secured by a relative abroad. The Government does provide citizens with the opportunity to exchange \$130 once every 3 years, but, most often such requests are denied. Also, a traveler to the West has to leave a close family member behind in Poland to insure his return. Those wishing to travel abroad for personal or professional reasons have to submit to the same bureaucratic procedures, but most requests are eventually granted.

The most significant development in Polish exit policies since Helsinki has come as a result of a 1975 Polish-FRG financial agreement in which the Polish Government promised to allow 125,000 ethnic Germans to emigrate to the FRG over a 4-year period in return for approximately \$950 million in economic aid and credits. As a result, 19,620 ethnic Germans left Poland in 1976 to be reunited with relatives in West Germany, as compared to 4,520 in 1975.¹⁰ Without the benefits of such an economic agreement, American efforts have been less successful. As John A. Armitage testified:

The Polish Government's policy toward emigration has been relatively restrictive in recent years. Therefore, in part as a result of the large Polish-American population in the United States, we have had a correspondingly large number of divided family cases to deal with. As of March 1, 1977, we had 213 current cases in Poland involving separation of immediate family members [376 individuals] and 808 of nonimmediate family separations [2,530 individuals]. . . . Since Helsinki, the number of cases being solved with Poland has failed to keep up with the number of new cases. In our frequent representations, Polish officials have maintained that sympathetic consideration is given to those cases where they believe legitimate humanitarian concerns are highest, but normally these involve only close family members. Recently, the Polish Government has taken favorable action on a number of urgent humanitarian cases.¹¹

As of June 1977, there were no pending marriage cases with the United States, but close to 1,000 family reunification cases remained. There has been a small increase in the numbers of Poles emigrating to the United Kingdom: 105 from June through September 1976, as compared with 63 for the same period in 1975.¹²

The Polish Government refuses to accept the principle of free emigration because of the detrimental effects it could have on Polish society and therefore tightly controls the numbers and types of people permitted to leave the country; only those "truly" humanitarian cases or those cases that have been "bought" by other governments are permitted. The Final Act does not define what constitutes a family member or a "truly" humanitarian situation, but simply calls on the participating states to deal with cases of those wishing to be reunited with their family "in a positive and humanitarian spirit." It does not appear that Polish attitudes toward divided family problems have changed significantly in this regard since August 1975.

¹⁰ Information supplied by FRG Embassy, at Commission request.

¹¹ CSCE Hearings, Basket III, vol. I, p. 80.

¹² Information supplied by United Kingdom Embassy, at Commission request.

Laws and regulations

Based on principles shared with the other European Socialist states, Romanian laws and regulations governing the movement of citizens out of the Romanian Socialist Republic are basically formulated so as to confirm and protect the right and authority of the state to restrict the movement of its people. Romania's Constitution and legal code are both silent on the question of the rights of individuals to move freely within and without the state's borders. Citizens "are entitled"¹³ to cross the state's borders only when they possess a valid passport and visa, the issuance of which is governed by Decree No. 156, 1970 on Passports and its implementing regulation, Resolution No. 424, 1970 of the Council of Ministers.

Four types of passports—diplomatic, official, simple, and one for those residing abroad—and four types of visas—diplomatic, official, simple and tourist—may be issued, depending on the nature of the trip and traveler. Unique to Romania, a special "Commission for Passport and Visa Problems" exists under the Council of Ministers and is charged with the major tasks involved in controlling external movement:

(a) coordinating, controlling and directing the activity of the competent authorities in this field; (b) resolving the complaints against the decisions taken by the other authorities charged with the issuance of passports and visas; (c) resolving the petitions of Romanian citizens requesting to establish their residence abroad, as well as those of foreigners wishing to establish residence in Romania.¹⁴

More specifically, official passports are issued through the Directorate of Passports, Ministry of Internal Affairs, simple passports through the district office of the central militia, simple visas through the Central Militia Office in Bucharest, and emigration passports and visas through the inspectorates of local district militias. The specific documents required and procedures involved in applying for either a passport or visa are not detailed in the passport law. The only legally specified requirements are that travelers "who are employees or members of one of the socialist organizations" need "the permission of the chief of the organization for which they work. The chief of the organization is responsible for such permission."¹⁵ Those applying for emigration passports need to present documentation that they have no outstanding debts or obligations to the state or other socialist organizations.

Direct restrictions on the issuance of passports consist of the three most commonly used caveats: passports may be denied (by the agencies of the Ministry of Internal Affairs): (a) if criminal proceedings are pending; (b) if the applicant has outstanding debts "and by going abroad may escape making the payments; (c) if by going abroad he (the applicant) *could* prejudice the interests of the Romanian State or *affect* the good relationship thereof with other states."¹⁶ [Emphasis added.]

¹³ Romanian Decree on Passports, 1970, art. 1, as translated by Dr. Virgiliu Stoicolu, "Freedom of Movement and Travel Under the Laws of the Socialist Republic of Romania," European Law Division, Law Library, Library of Congress, March 1977.

¹⁴ *Ibid.*, Decree on Passports, 1970, art. 8.

¹⁵ *Ibid.*, art. 16.

¹⁶ *Ibid.*, art. 12.

The third restriction is broad and open to arbitrary interpretation; the individual applicant is even further bound by the authorities' decision in that only a limited right to appeal decisions is legally provided. The Commission for Passport and Visa Problems, another administrative organ, is charged with resolving any complaints brought against decisions on passports or visas.

In addition, an important indirect restriction on travel contained in article 15 opens the possibilities for further administrative controls over external movement:

Petitions for going abroad for personal reasons shall be decided on within the limits of available foreign currencies as established for this purpose through the annual state plan and in accordance with the criteria and *preferential order* established by the Resolution of the Council of Ministers.¹⁷ [Emphasis added.]

Decisions, according to article 18, on the granting of official passports must be made within 30 days, and on simple passports, within 60 days from the time the application is filed. Article 10 stipulates that Romanians may only travel once in 2 calendar years, except in specific cases. Emigration passports are valid for 1 to 2 years and may be renewed for 1 to 2 years up to a maximum of 10 years. Other passports are issued for 5 years and may be extended for a maximum 10-year period. Exit visas, however, without which no one may cross the state's borders, are valid for only 6 months. All passports must be returned to the authorities within 48 hours of the traveler's return to Romania.

To parallel the strict controls over the legal means of leaving Romania, Romanian law sets severe sanctions against illegal departures. Unlawfully crossing the border or unlawfully remaining abroad is considered a crime against the state, punishable by imprisonment from 6 months to 7 years.

Process and practices

As with such laws in most Warsaw Pact states, Romanian regulations on travel are restrictive and restrictively applied. Travel—particularly to a non-Communist nation, whether for tourism, business, personal visits or family reunification—is difficult, and new procedures complicating the application process have made obstacles higher.

In practice, however, the Bucharest government has shown signs in 1977 of some willingness to relax its policies. In the first 6 months of this year, according to statistics Romanian officials supplied to the Commission, more Romanians emigrated to the United States, West Germany, and Israel than in all of 1976.

Nonetheless, the propaganda campaign against emigration and family reunification has intensified both in the Romanian press and by President Ceausescu himself since 1975. As a "developing" nation and one populated with a comparatively large number of minority groups—particularly German and Jewish—with family abroad and a desire to leave, Romania has cause to fear the "brain drain" threat of increased emigration. The first step in halting that threat is to try to convince those who wish to leave that: (1) "Leaving one's fatherland to look for work, the tragic calamity of emigration, and accumulating profits for great monopolies that use a cheap labor force, is for millions of poor people attracted by deceitful propaganda, a fate that should not be

¹⁷ *Ibid.*, art. 15.

envied";¹⁸ and that (2) "We disapprove now and will always disapprove of those who, regardless of reasons, want to leave the country . . . who betray their country . . . no matter how bitter the bread, it still tastes better in your own country."¹⁹ By depicting Western nations as lands of misery and depravation, and labeling would-be emigrants as unworthy traitors, the Romanian Government hopes to deter others from leaving.

For those who persist in their desire to travel or to rejoin families abroad (which Ceausescu calls an "anti-human action" because it is an "attempt to tear them apart from the land where they and their parents were born"),²⁰ the authorities, in general, demand a lengthy and complex application process, both for travel and emigration purposes, before they decide whether or not to grant the passport and visa. The first step in that process is the need to obtain the necessary application forms, which can often be as long and frustrating a process as getting the completed application forms approved. According to Deputy Assistant Secretary of State John Armitage:

This "application for an application" contains the applicant's vital statistics and family data and requests permission to apply formally for departure. The disposition of the preliminary application normally takes several weeks and an individual may have several such applications rejected. While the institution of this step generally coincides with the CSCE Final Act, a causal relationship is doubtful. The preliminary application does place an additional obstacle in the path of the prospective emigrant, but not one that is particularly difficult to surmount.²¹

Valerie Secu, Chairman of the American-Romanian Committee for Family Reunion, testified before the Commission that:

Written permission is necessary to obtain the application forms for an exit visa from several organizations. . . . Exit visa forms are released only by local militia precincts, and cannot be obtained without written permission from: (1) the management of the company the person is employed with, or from the counselor and department chairman [or principal] for college students or high school students; (2) the syndicate from the person's job or school; (3) the party organization from the person's job, school or college.

To obtain such written permission, the applicant has to forward his written request to the company or school directorship. . . . If the request is considered, the applicant is often called for interviews with the people involved in the above-mentioned organizations. These interviews are often followed by public meetings involving the applicant, his co-workers, management and party officials. These people "judge" the applicant and his reasons for traveling abroad to visit relatives or friends, or to emigrate. The applicant is repeatedly questioned about why he wants to travel, especially to a capitalistic country, why he wants to visit a relative in the Western world. If the applicant wants to emigrate, matters are even worse. . . .²²

Another American writes of his Romanian family member's attempts to rejoin him here:

Despite her repeated requests, they refused systematically to give her application forms for travel documents and exit visas. She was finally sent by the police in charge of handling these problems to the Communist Party boss of the city who tried to intimidate and dissuade her from applying for the reunification of her family.

¹⁸ Nicolae Ponescu, FBIS, Apr. 1977, p. H7.

¹⁹ President Ceausescu, FBIS, Feb. 18, 1977, p. H11.

²⁰ President Ceausescu, speech of June 3, 1976, before the Central Committee of the Romanian Communist Party.

²¹ CSCE Hearings, Basket III, vol. I, p. 93.

²² *Ibid.*, p. 131.

Her problem was discussed by the party "cell" of her place of work. They called a meeting attended by the employees and she had to explain publicly her reasons for asking to leave. I believe the new strategem of the Romanian authorities is to refuse the petitioners the right to file for travel documents and when questions from abroad arise, the answer may be "Sorry, but the people you mention never filed an application and we don't force our citizens to emigrate."²³

Because the procedures for "applying for an application" are not covered by any written law, local militia officers have a great deal of flexibility in their decisions to grant or refuse the application form. If an applicant persists in his efforts, the forms are granted, but not without considerable delays and frustrations. Further delays can be placed in the applicant's path by his employer or party organization if they refuse or hold up the granting of the necessary documentation. Extracts from two letters sent to the Commission by Americans who have been trying to bring their Romanian family to the United States attest to these delays:

Since 1975 she has tried to apply for a passport, but until this day she could not do so because her government employer has refused to give her permission to submit the application for the passport.²⁴

Mircea Meleasa has been unable to get his company approval to travel because there are too many people involved. His fellow workers have to agree in a public meeting with his traveling in a capitalistic country, then the Union, then the Company Management, then the local Party organization. So far it has not been a meeting of minds of so many people, and Mircea Meleasa, my cousin, did not get the application forms.²⁵

Once the applicant receives the necessary papers, he has to fill out 10 separate forms, pay 25 *lei* and submit them, together with the necessary documents—birth and marriage certificates, employer's approval, a certificate that the applicant has no outstanding debts to the state, a certificate that his work did not involve state secrets, a certificate that he is not under criminal prosecution, and a certificate that he has no dependents—to the passport bureau. He may be called in again for questioning and further dissuasion attempts. In some family reunification cases, the Romanian Government insists that the family living abroad must first legalize its status with the Government either by renouncing Romanian citizenship or by applying to remain a Romanian citizen living abroad. Both those alternatives are costly, time-consuming and often humiliating experiences for the American relatives.²⁶

In general, an answer to the exit request is received within 60 days although, in several cases that the Commission is aware of, 6 months and longer have passed without a reply. The authorities are not obliged to provide a reason for refusals, and rarely do. Passport or visa refusals may be appealed, in writing, to the Commission for Passport and Visa Problems which also does not have to justify its decisions. If the refusal is upheld, the applicant has no choice but to begin the process again, although sometimes that, too, is denied him. As Mariana Blum testified before the Commission:

My parents applied on January 5, 1977, for a new set of applications for emigration. Receiving no answer on January 18, 1977, my parents went to the Pass-

²³ *Ibid.*, p. 205.

²⁴ Letter received by the Commission from an American who wishes to be reunited with his sister.

²⁵ CSCE Hearings, Basket III, vol. I, p. 225.

²⁶ *Ibid.*, p. 127.

port Office to inquire about their application. The answer they were given was that applications for emigration are given only to those who were refused the applications for emigration made in 1974. Since my parents filed the applications for emigration in 1975, the Passport Office refused to give them new applications.²⁷

Approvals are generally given, according to information the Commission has received, only when high-level representations are made to the Romanian Government. Once granted the passport and visa, the Romanian who is emigrating must clean and renovate his apartment, sell it to the state, and liquidate his other assets. He may take few of his valuables with him, despite the Final Act's pledge that "Persons whose applications for family reunification are granted may bring with them or ship their household and personal effects."

Those traveling abroad need an affidavit of support from the person they are visiting, and they, in almost all cases, must leave a close family member in Romania as a "hostage" to guarantee their return. Even greater difficulties face those who wish to marry a foreigner since the finance needs to obtain permission not only for the exit visa, but for the marriage itself. One American whose fiance is in Romania wrote the Commission:

According to the United States Embassy staff concerned with our case in Bucharest, the marriage approval is the toughest problem we have to face; since it must be endorsed by the Romanian Council of State and approved by President Ceausescu himself.²⁸

Judging by letters the Commission has received, that approval may take years to process:

Since 17 July, 1975, we have waited for this authorization, and on the 30th March, 1977, we received a denial. All the petitions we wrote to the Romanian State Council remained without an answer. Considering that we have the most elementary human right to marry each other, and to settle down in the country of our choice, we beg you to help us.²⁹

Intertwined with the lengthy and complex procedures outlined above for leaving Romania or marrying a foreigner are the psychological pressures and harassments intended to deter people from applying or from following through on their applications. In addition to the negative attitudes towards emigration expressed frequently in the press and by the President, and the peer pressure of having to appear before local People's Councils chaired by the Party Secretary—a post-Helsinki requirement dating from December 1975—are other harassments which often may come as a direct result of the application.

The following extracts from letters the Commission has received highlight some of these problems.

One recrimination some applicants still may face is job loss or demotion:

My sister Adela was told that since she had applied for an exit visa, she could no longer hold the position she had and was given menial work to do.³⁰

Mr. Bals has been dismissed from his job and is not allowed to apply for another because of his expressed desire to emigrate.³¹

²⁷ *Ibid.*, p. 147.

²⁸ Letter received by the Commission from an American who wishes to marry a Romanian.

²⁹ Letter received by the Commission from a Romanian who wishes to marry a woman living in the FRG.

³⁰ Letter received by the Commission from a Romanian-American whose sister wishes to join him in the United States.

³¹ CSCE Hearings, Basket III, vol. I, p. 199.

I applied for emigration in July, 1975 . . . on the second day, I was put out of my scientific work, discharged of my job and my wages cut down. Almost every day I have been called to several authorities and unofficially in a "friendly" manner advised to withdraw my petition, because anyway I shall not be allowed to go, I shall be fired and be jobless . . . my situation is indeed desperate: to live for me in Romania is no more possible without a job, and to leave the country I am not allowed.³²

Other forms of reprisal may include expulsion from universities or other academic institutions:

Their daughter, Roxana, a college student, was throw[n] out from the University and her passed exams, cancelled.³³

And being arrested or forced to divorce one's spouse:

Just two weeks after Mr. Ceausescu signed the Final Act in August 1975, my wife was physically prevented from entering the United States Embassy in Bucharest where she was seeking help in obtaining a passport and exit visa to emigrate to the United States. She was held at that time two days in jail with the divorce papers in front of her and threatened with physical torture if she did not sign the divorce papers.³⁴

After a study mission to Romania in 1976, Representative Jonathan Bingham, a Commission member, further reported on the social isolation of unsuccessful applicants:

Government investigators and members of local screening commissions may encourage neighbors and friends of applicants to spurn them, leaving applicants as social outcasts until they are actually able to emigrate . . . Children of prospective emigrants may lose their positions in school—sometimes long before permission to emigrate is granted. . . . The net result of these Romanian procedures—and to a lesser extent the immigration procedures of host countries—is considerable anxiety, hardship, and pain for those who seek to emigrate. . . . While official government policies impose no sanctions or losses of rights upon prospective emigrants, in fact and in practice, anyone who applies to leave Romania is likely to find himself and his family at least temporarily isolated and deprived of basic opportunities and necessities of life.³⁵

The result of Romanian passport policy is that only a restricted number of people are allowed to leave the country for either travel or emigration. Emigration is based almost exclusively on family reunification—and particularly on family reunification cases where representations have been consistently made either by governments or high-level officials.

One area in the Romanian emigration picture where there has been a noticeable improvement since Helsinki is in the number of individuals allowed to immigrate to the United States, "though" according to the President's second semiannual report, "the motivation likely rests more with the receipt by Romania of most-favored-nation tariff status and access to Export-Import Bank credits from the United States than with its CSCE obligations."³⁶ 1,339 U.S. visas were issued from July 1975–June 1976, as compared with 312 from July 1974–June 1975. There has been a decline since July 1976, however—1,048 from July 1976–June 1977. The second semiannual report noted: "In recent

³² *Ibid.*, p. 205.

³³ Letter received by the Commission from a U.S. resident who would like to be reunited with her family from Romania.

³⁴ CSCE Hearings, Basket III, vol. I, p. 222.

³⁵ "Developments in U.S. Economic Relations with Romania and Hungary: Report of a Congressional Study Mission." (Washington, D.C.: U.S. Government Printing Office, Aug. 4, 1976), pp. 9–10.

³⁶ "Second Semiannual Report," pp. 27–28.

months, however, Romania's processing rate has not kept up with the increase of new cases, leading to a considerable backlog. In our exchanges with Romanian officials, we expressed the hope that efforts to improve the situation would be made."³⁷ Out of more than 1,120 persons on the U.S. representation lists of December 1976, 312 had received favorable action as of June 15, 1977. Out of 57 marriage cases, 27 were approved, with an average waiting time of 10 months in each case. Fifty-eight U.S. marriage cases were pending as of June 1977. In March, April, and May 1977, of close to 800 pending U.S. family reunification cases, 60 were resolved in March (39 were added), 34 in April (35 were added), and 50 in May (56 were added). As Mr. Armitage testified, "we have found that persistence on the part of the applicant and support from the U.S. side generally result in eventual approval of the application, although the process always takes months and sometimes years."³⁸

A major family reunification problem for Romania is its large ethnic German minority—approximately 400,000 individuals. Recent increases in the numbers of ethnic Germans being allowed to leave for the FRG indicate, however, a more favorable attitude by the Romanian Government to the question of German emigration. While large numbers were allowed to emigrate in 1973 and 1974, there was a decline in 1975 and an even sharper decline in 1976: in 1974, 5,400 German Romanians left for the FRG; in 1975, 3,870, and in 1976, 2,720.³⁹ It is clear, however, that these figures will rise significantly in 1977 since over 5,500 Germans have already left in the first 6 months of the year.

The Romanian Embassy has supplied the Commission with figures which reflect that major rise. According to these Romanian statistics, 6,430 Romanians left the country for the United States, Israel and FRG in 1976, while 6,933 have already immigrated to those countries in the first 6 months of 1977. The increase comes almost exclusively from the greater numbers being allowed to immigrate to the FRG, although there has been a small increase in immigration to the United States. If these increases are indicative of a trend, they would signal a welcome changing attitude on the part of the Bucharest regime toward family reunification cases.

Nevertheless, emigration from Romania to Israel has declined and continues to decline in the post-Helsinki years. In 1973 and 1974, annual Jewish emigration from Romania to Israel totaled 3,700. From August 1974, to July 1975, 2,592 Romanians were permitted to rejoin their families in Israel—from August 1975 to July 1976, the number dropped to 2,051 and the total from August 1976, to July 1977 is 1,255; a decline of nearly 50 percent.

It is true—and to a degree, encouraging—that the Romanian rate of approval of applications to emigrate to countries other than Israel has risen in 1977. It is also true, however, that by imposing a new step in the emigration process—requiring an application for an application to emigrate—Romania has created a further obstacle to the freer flow of people.

³⁷ *Ibid.*

³⁸ CSCE Hearings, Basket III, vol. I, p. 82.

³⁹ Information supplied by the FRG Embassy, at Commission request.

EASTERN EUROPE

Contacts and regular meetings on the basis of family ties

The participating states will favourably consider applications for travel with the purpose of allowing persons to enter or leave their territory temporarily, and on a regular basis if desired, in order to visit members of their families.

The available record to date does not indicate that major changes have been enacted in the Warsaw Pact nations of Eastern Europe to facilitate family visits. In general, those wishing to visit a family in the West are exposed to the same restrictions and procedural hurdles faced by those wishing to travel for other reasons: inordinately long delays, nonconvertible currency regulations, the requirement that one family member stay behind as a "hostage." Even with assurances of return to the Warsaw Pact country, exit visas for family visits are difficult to obtain.

Romania, Czechoslovakia, and Bulgaria maintain the strictest policies, while Hungary appears to be the most flexible in this area. The GDR generally allows East Germans to travel to the West only if they are retired or are traveling on urgent family matters. Early this year, the Romanian Government announced that visitors of "Romanian origin" would be exempt from the lodging and currency exchange requirements for tourists, yet did not define "Romanian origin." The number of Romanians actually allowed to visit relatives in the FRG in both 1975 and 1976, was less than half the number in 1974 (4,400 and 4,840 vs. 10,310).

The Czechoslovakian Government's amnesty of those who left "illegally" during the Prague Spring of 1968 will, it is hoped, alleviate the plight of a 72-year-old Czech woman and others like her; Vlasta Herlesova, suffering from progressive arthritis, has been denied a temporary exit visa to visit her daughter and son-in-law in the United States. The daughter and her husband, who left Czechoslovakia in 1968, say that Mrs. Herlesova will be too crippled to travel within a year.

Despite the pledge to give priority to cases of urgent necessity, Elena Dimitrov, a 74-year-old Romanian, ill with diabetes and osteoarthritis, has been denied permission to travel to New York to visit her daughter and receive medical treatment. Boyden Marison, a Polish-born American citizen, has applied on numerous occasions for visitor's visas for himself and his 9-year-old daughter to visit his bedridden 75-year-old mother in Poland. Although he has not seen her in 20 years and she is seriously ill, he received his latest refusal from the Polish authorities in May 1977. Milena Tanska, a former journalist and citizen of Czechoslovakia now residing in New England, wrote in an open letter to her 77-year-old father on June 23, 1977, that she "tried to be optimistic" (about his receiving a visa to travel from Czechoslovakia to the United States to visit his daughter and two grandchildren) "particularly in view of the loud claims made by the government in Prague that it stood by its Helsinki commitments." After being notified that his application for a visa was rejected, Mrs. Tanska wrote, "Have we asked for too much when we wanted to be reunited for six weeks? Should somebody actually have the right to deny us the little but precious joys of being together, a father, his daughter, and her family?"⁴⁰

⁴⁰ "Letter From My Father," Christian Science Monitor, June 23, 1977.

Travel and tourism

The participating states intend to facilitate wider travel by their citizens . . . they intend in particular gradually to simplify and to administer flexibly the procedures for exit and entry . . . They will endeavor gradually to lower, where necessary, the fees for visas and official travel documents . . . they intend to promote visits to their respective countries by encouraging the provision of appropriate facilities and the simplification and expediting of necessary formalities relating to such visits.

Travel

In general, few noteworthy actions have been taken by the Warsaw Pact states to "facilitate wider travel by their citizens" (see previous section). Countries which sanctioned a more liberal travel policy 2 years ago continue to do so today, while those which maintained tighter controls have kept them in place and, in some cases, have even tightened those controls. Citizens of East European nations who wish to travel to the West face certain common obstacles which vary in their degree of difficulty from country to country: the problem of securing the necessary foreign currency is one of the most serious obstacles in all countries; the requirement that a close family member remain behind may take half the pleasure out of a vacation; the need to request, gather, and update an extensive group of documents; to wait in long lines, and to wait for the authorities' decision takes time, patience, and stamina; the policy of restricting the number of times and the number of days a person may travel abroad limits the traveler's freedom to leave when he wants or needs to travel; the complete control administrative authorities have over the issuance of a passport and visa gives would-be travelers little or no recourse against arbitrary denials. Within that general framework, the Final Act has brought no significant changes. Now, as in August 1975, a Pole and a Hungarian would no doubt find it easier to travel abroad for personal or professional reasons than would a Czech or a Bulgarian. A Romanian or East German, unless he were over 60 years old or traveling on urgent family matters, would still find it next to impossible to travel to the West as a tourist.

Travel from Czechoslovakia and Hungary has been somewhat simplified, in that both governments have increased the amounts of foreign currency their citizens may officially exchange for a trip abroad—Hungary from 3,300 to 3,600 *forints* (\$1 = approximately 20 forints), Czechoslovakia from \$9 per day, \$180 maximum to \$11 per day, \$220 maximum. Nevertheless, when East Europeans purchase hard currency from their governments they pay extremely high rates—usually two or three times higher than those at which their governments sell local currencies to Western tourists coming into the country. East German pensioners traveling to West Germany have also found their passport application procedures to be less burdensome and time-consuming. Romanians—largely because it is estimated that 10–15 percent of those granted permission to travel to the West never return—are finding it more difficult even to apply for permission to travel outside the Socialist bloc.

The problems associated with the exit procedures from the different countries of Eastern Europe have generally been more of an obstacle to increased East-West human contacts than those associated with the

entry procedures into those countries. The best evidence of this—and of Western policies of free exit—is that considerably more Western tourists visit Eastern Europe than East Europeans visit the West.

In all countries of East and West, procedural impediments to the free flow of people still remain, some more serious than others. Most East European countries, except perhaps East Germany, welcome Western tourists and the foreign currency they bring with them. The welcome, in fact, is reinforced by rules in all the East European states—burdensome for some travelers—requiring foreigners to exchange a minimum amount of foreign currency for each day of their visit—in most countries, \$10 per day. Otherwise, entry visa procedures into Eastern Europe (except the GDR) are relatively simple. Visas may be secured at the point of entry, fees are moderate, restrictions on travel within the country are limited to militarily-restricted areas, tourism is promoted in the West. The only exception, East Germany, has continued to impose cumbersome restrictions and regulations on tourists desiring to visit the country. A visa usually takes several weeks to be processed and the Western traveler needs to present and follow a set itinerary and reserve prepaid hotel bookings. Another exception to the relatively simple entry procedures in most countries is that made for former nationals of those countries who left illegally; in most cases, these former nationals have a difficult time getting their entry visas approved.

Two years after Helsinki, some countries have instituted small changes “to simplify and to administer flexibly the procedures for . . . entry.” Hungary has signed a bilateral agreement with the United States reducing the waiting period for entry visas and the internal travel restrictions on officials in both countries. Czechoslovakia and the United States signed a similar agreement in November, 1976. However, Hungary and the GDR have rejected American proposals to eliminate fees for non-immigrant visas. The GDR has generally since CSCE enacted policies that have served to decrease East-West contacts and not “facilitate wider travel”: at the end of 1976, the East German Government announced that all non-Germans visiting East Berlin from West Berlin would have to obtain a visa, even those staying less than 24 hours (who previously did not require a visa); in March, 1977, a \$4 road tax was required of all cars entering East Berlin; after three rounds of negotiations, there is still no agreement on a consular convention with the United States. (“They [the participating states] intend to consider, as necessary, means—including, insofar as appropriate, the conclusion of multilateral or bilateral consular conventions or other relevant agreements or understandings.” All East European countries, except the GDR and Czechoslovakia, had signed consular conventions with the United States prior to Helsinki. Neither the GDR nor Czechoslovakia has signed one with the United States since then.) In Romania, the Government has instituted a policy whereby foreign visitors cannot lodge with Romanians unless they are close relatives; Romanians must now report all contacts with foreigners to the state authorities.

Several well-known cases of those denied entry or exit visas highlight the problems that other, less well-known individuals have faced in traveling into or out of Eastern Europe: Pavel Kohout, a Czech playwright, could not come to the 1976 opening of his play in New

York because the Czechoslovak authorities refused to grant him an exit visa; Vaclav Havel, another Czech playwright, was denied the same right to travel to Vienna in November 1976, at the invitation of the Austrian Minister of Culture; Wolf Biermann, an East German bard, was refused the most elementary right to return to his own country; Prof. Robert Byrnes of Indiana University could not attend an International Commission on Slavic Studies in Poland because the Polish authorities delayed his visa request; this Commission was also denied entry into all the countries of Eastern Europe.

Tourism

Communist commentators use statistics showing that more Western tourists travel East than vice-versa to maintain that the West discourages tourism on the part of East Europeans. The more relevant point may be made that the Warsaw Pact countries themselves discourage tourism by their citizens to Western countries. From the United Kingdom, whose population is almost half that of Eastern Europe's (excluding Bulgaria), approximately 157,000 United Kingdom residents in 1974 and 174,000 in 1975 visited Eastern Europe (excluding Bulgaria), while 74,956 East European residents in 1974 and 79,055 in 1975 visited the United Kingdom. From the Federal Republic of Germany, with approximately two-thirds the population of Eastern Europe (again, excluding Bulgaria), 3,129,731 West Germans in 1974 and 4,277,595 in 1975 traveled to the countries of Eastern Europe (excluding visits to East Berlin), while 1,759,838 East Europeans in 1974 and 1,780,066 in 1975 traveled to the FRG.⁴¹ Significant increases in numbers traveling in either direction are difficult to gage because few countries have released statistics for 1976 or 1977. In general, though, there have been small increases in travel to and from all countries. Hungarians per capita travel the most extensively of the Warsaw Pact citizens; in 1975, 3.5 million Hungarians (out of a population of 10.5 million) traveled outside of Hungary—over 250,000 to non-Socialist countries. Close to 2 million more West Germans traveled into the GDR in 1975 than did so in 1974—over 8 million such visits took place in 1976. There have also been indications that travel from Czechoslovakia to the FRG and Italy has risen.

So that in the brief 2-year period since the Final Act was signed there has been a modest increase in contacts between the people of East and West. The procedural difficulties the Final Act's provisions had hoped to alleviate have not been significantly modified by the countries of the East (or the West), but many countries are perhaps realizing that increased human contacts across borders and across ideological barriers should be viewed not as a threat to their internal security, but as a hope for increased external security and cooperation.

WESTERN COMPLIANCE

WESTERN EUROPE

The right to leave

When Andrei Sakharov observed in his 1975 Nobel Peace Prize lecture that a teen-ager in Denmark is free to "cycle off to the Adriatic,"

⁴¹ Information supplied by the UK and FRG Embassies, at Commission request.

he presented that image of Western freedom of movement as a contrast to the maze of Soviet restrictions on travel. In broad outline, the comparison is just. As far as a citizen's travel *outside* the borders of his own country is concerned, Western states long ago conformed their practices to the Final Act's "aim to facilitate freer movement and contacts, individually and collectively, whether privately or officially. . . ."

Restrictions, however, do exist, and many of them are similar in nature (though not in application) to the limitations imposed on the right to leave by Warsaw Pact regimes. Would-be travelers suspected of carrying contagious diseases, subject to unresolved financial claims such as alimony or taxes, required to perform military or civil service duties, or under court-imposed restraint relating to a criminal or civil proceeding or conviction, can be denied permission to leave or granted such permission only after reporting their intention to travel.

Minors in Belgium and Norway, for example, need parental permission in order to obtain passports. Finnish alcoholics may be denied permission. A Swiss citizen could be refused a passport if there is "sufficient evidence" that its issuance would "endanger national security and the national interest."⁴²

Arbitrarily administered, such restrictions could be obstacles to travel as formidable as those in effect in Eastern Europe and the Soviet Union. Subject to judicial scrutiny and reversal—as they are in most of the Western Final Act signatory countries—the limitations function reasonably and without infringing unjustly on any particular class of citizens.

The detention of Italian actress Sophia Loren at the Rome airport for a tax investigation undoubtedly struck her as arbitrary.⁴³ More broadly, the discretion to issue or deny passports in France and Great Britain is lodged with administrative officials whose decisions are difficult to appeal, much less reverse. Though such broad discretion is open to arbitrary application, the Commission is not aware of significant or systematic instances of its abuse, before or since the Final Act was signed.

Entry and immigration

In admitting foreigners, West European states also impose restrictions which could, in theory, be as burdensome as Eastern practices. The regulations have, in fact, been applied in most cases in the "positive and humanitarian spirit" the Final Act sets as the standard for consideration of family reunification cases.

More to the point, however, the Commission finds no evidence that the Final Act has impelled West European signatories to re-examine or "simplify and . . . flexibly administer" their "procedures for . . . entry." That inaction is regrettable. In the cases, again, of France and Great Britain, where public comment on the stringency of entry requirements has linked the issue directly to Final Act compliance, the absence of change may expose those nations to a measure of criticism at the Belgrade review conference.

It is unlikely, on the other hand, that Helsinki signatories would choose to complain about the long-standing restrictions Austria and

⁴² Karl Partsch, "Western Europe and Other Non-Communist States," *The Right to Leave and to Return* (Papers and recommendations of the International Colloquium held in Uppsala, Sweden, June 19-20, 1972), the American Jewish Committee, 1976, p. 96.

⁴³ *The New York Times*, Mar. 9, 1977, p. C3.

Italy impose on the return to their territories by members of the former ruling houses of Hapsburg and Savoy. Greek practice now requires lengthy, case-by-case scrutiny of applications to return by several hundred thousand citizens who left Greece during the civil conflict after World War II for political refuge in Eastern Europe and the Soviet Union. Because of the delays involved, this treatment might be regarded as constituting a less than "positive and humanitarian" approach to family reunification matters.

Conclusion

While only Austria, Cyprus, Malta, and Turkey—among the Western signatories—have enshrined the citizen's right to leave and to return in their Constitutions, the implementation of that right and of a general freedom of travel in Western Europe accords almost fully with the letter and the spirit of the Final Act. Exceptions are few. In no case is human contact systematically impeded.

Having little need further to facilitate travel conditions for their own citizens or for aliens to meet the requirements of the Final Act, the states of Western Europe were already substantially in compliance with the act when it was signed. They remain so today.

UNITED STATES

The United States has taken action—under the stimulus of the Final Act—to bring its passport and visa issuance practices more nearly into compliance with implicit Helsinki standards. In March 1977, President Carter ordered the removal of what he called "the last remaining restrictions" on foreign travel by Americans, provisions which had made U.S. passports invalid for travel to Albania, Cuba and North Korea. He also announced that the United States "will move to liberalize travel opportunities to America."⁴⁴

More precisely, Secretary of State Vance told the Commission in early June, "the whole visa question is under consideration in the Executive Branch right now."⁴⁵ The Executive review, however, has so far produced no notable changes in the cumbersome and controversial procedures by which U.S. officials are bound in determining whether or not to admit an alien for a temporary or permanent stay in the United States. Action by the Congress and the President in August may result in a marked simplification of the visa-issuance process in 1977, but the United States will nonetheless be open to justifiable criticism at the Belgrade conference for failures fully to honor the Final Act provisions "to improve conditions in this [human contacts] area."

Cumbersome U.S. visa policies affect visitors from all countries, as an Industry-Government Special Task Force reported in 1968:

Entry procedures for vacation and business visitors to the United States are outmoded. They serve only to project an adverse image of this nation's willingness to receive foreign guests. They are overly defensive and bespeak an unfriendly attitude based upon feelings of suspicion. . . .

⁴⁴ President Carter's address to the United Nations as quoted in the *Washington Post*, Mar. 18, 1977.

⁴⁵ CSE Hearings, Basket III, vol. IV, pp. 21-22.

In order that the United States rid itself of this stigma, a dramatic new policy of simplified procedures must be adopted, specifically geared to the short term visitor.⁴⁶

Visa procedures have not changed significantly since the issuance of the report.

U.S. compliance problems originate in the 1952 (McCarran-Walter) Immigration and Nationality Act, establishing 32 categories of aliens considered ineligible to receive entry visas. While many of the categories are unexceptional, one definition does proscribe entry by aliens who are or have been members or affiliates of a Communist organization. The proscription can be lifted by a waiver from the Attorney General, and 96 percent of those initially refused visas in fiscal year 1975 under the terms of section 212(a) 28 did, in fact, receive such waivers.

One class of applicants—Communist trade unionists intending to meet with labor union groups in the United States—has been, before and since Helsinki, systematically denied those waivers. Although, at the insistence of U.S. negotiators, the Final Act makes no mention of encouraging trade union contacts, the practice of denying them admission to the country can scarcely be reconciled with the overall thrust of the Helsinki accord.

Nor do such practices gibe with the specific Basket III subsection under which signatories committed themselves to “facilitate wider travel . . . for personal and professional reasons” and registered their intention “gradually to simplify and to administer flexibly” existing visa procedures. The pledge to make conditions easier for temporary travel applies across the board. Conditions are to be eased for all travelers—butchers, bakers, candlestick-makers and trade union representatives.

It can certainly be argued that Communist unionists travel on false pretenses, representing a political affiliation rather than a commitment to the labor movement. In the open American marketplace, however, that argument can best be made in direct confrontation of opposing views. The argument is not served by an a priori exclusion of spokesmen for one side of it.

In recent months, for instance, an Australian Communist labor leader and environmental expert was barred from attending a union-organized discussion of environmental protection issues, although he had previously been admitted to the United States to lecture to Sierra Club audiences. Three Soviet trade unionists, invited to a longshoremen’s union convention in Seattle this April, were also denied visas. On occasion, U.S. consular officials in Moscow have found themselves in the embarrassing position of issuing visas to U.S.S.R. unionists, but conditioning the visas with written instructions to the Soviets not to make contact with American unionists during their visit.

U.S. practice, in short, is discriminatory. The grounds for the discrimination—that Communist unionists are government agents and neither free nor true representatives of workers—reflect a mind-set the Final Act does not condone.

⁴⁶ Report to the President of the United States from the Industry-Government Special Task Force on Travel (Washington, D.C.: U.S. Government Printing Office, 1968), p. 27.

Every nation, of course, has the right to bar entry to individuals whose presence could jeopardize its security, but that standard does not appear to be the one applied at present to Communist trade unionists seeking visas to the United States. The difference between American rhetoric and practice on the issue of expanding travel opportunities is one which exposes this country to telling criticism from other signatories, including those whose practices in the same field are profoundly at variance with Helsinki standards.

That same divergence also undermines otherwise sound U.S. protests against Communist restrictions on professional travel of Warsaw Pact state subjects. Americans are right to seek freedom for Prof. Benjamin Levich to attend an Oxford colloquium in his honor, for Pavel Kohout to see the Broadway opening of his play or for Andrei Sakharov to receive his Nobel Peace Prize in person. But right or wrong, Americans cannot be effective while vulnerable to charges that their own restrictions on similar travel are in violation of the Final Act.

Ostia Jews

Another area of disputed U.S. practice concerns approximately 300 Soviet Jewish emigrants who have been denied entry into this country. Known collectively as the "Ostia Jews" because, for the past 2 years, most of them have lived in that town outside Rome, they came to the Commission's attention during a staff trip to Europe to examine Soviet emigration practices. While in Rome, staff members met with their representatives at the offices of UCEI, the Catholic relief organization in Italy.

These people, and a few others like them scattered throughout Europe, left the Soviet Union in 1973 and 1974. By their accounts, immigration to the United States has always been their goal, but they realized that they would be most likely to succeed in leaving the U.S.S.R. on Israeli visas. The Ostia Jews claim that, upon arrival in Vienna, they did not know that their possession of visas for Israel did not actually require them to go there. Ignorant of any alternatives, they continued on to Israel, with the intentions, they claim, of leaving for the United States from there.

Since they were allowed to take only 90 *rubles* (about \$120) with them from the Soviet Union, many took jobs in order to reimburse the sponsoring organizations in Israel for the assistance they had received. Often this took over a year. When they had paid off their financial obligations, they left Israel, made their way to Rome and applied for entry into the United States, assuming, they claim, that they would be processed as refugees. The Immigration and Naturalization Service ruled, however, that these Soviet Jews had forfeited their refugee status by becoming "firmly resettled" in Israel. They were held ineligible for the conditional entry into the United States available to refugees.

Thus, some 300 Jews are currently living in Ostia, under pitiful conditions, hoping that the INS will reverse itself in their cases. They are without valid travel documents and do not qualify for benefits and relief aid from the various voluntary agencies. Italy, facing a high rate of unemployment, has been unwilling to provide work

permits, medical care or schooling for the children. The Ostia Jews live in seedy apartments—often 10 to a flat—barely subsisting on the sale of belongings brought with them from the Soviet Union. In spite of the pathetic plight these families find themselves in, the Immigration and Naturalization Service maintains that they were “firmly resettled” in Israel. The irony of this is evident: most of these emigrants have now lived longer in Italy than in Israel.

Among the 300 are many cases of divided families. Their relatives either left the U.S.S.R. and went directly to the United States or they left Israel, were not classified as “firmly resettled” and thus were eligible for U.S. immigration. The decision to forbid the reunion of these families in the United States does not appear to be in keeping with the pledge made at Helsinki to “deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their own family . . .”

The United States, of course, is not required to accept everyone who wishes to immigrate and the argument can be made that strict immigration policies are necessary to maintain our society’s well-being. Yet the Congress and the U.S. Government’s longstanding commitment to freedom of emigration for Soviet Jews, which undoubtedly encourages many to apply to leave, does not coincide with the decision not to accept one group of those who are allowed to leave.

Aside from the moral and humanitarian concerns, it is in the best interest of the United States to eliminate any potential areas of vulnerability before the Belgrade review meeting. The Soviet press has not missed an opportunity to exploit the plight of these emigrants in order to criticize Western policies and deter further Jewish emigration.

The Commission believes that the Secretary of State should recommend that the Attorney General exercise his parole power on a *one-time basis* to allow the immigration of those Soviet Jews who left Israel prior to December 31, 1975. Such an action would enable those stranded in Ostia, and those few in similar straits in Vienna, Paris, and other European cities to enter this country without encouraging a new migration from Israel.

CHAPTER V—INFORMATION

FINDINGS AND RECOMMENDATIONS

FINDINGS

The guiding commitment contained in the information provisions of the Helsinki accord is to "facilitate the freer and wider dissemination of information of all kinds". The Commission has found that in spite of a few largely cosmetic improvements that Warsaw Pact countries have not substantively altered their policies in this area. The 2 years since the Helsinki summit, of course, provide only a short time in which to alter longstanding traditions of government control in this field. To reach Final Act goals, however, many Warsaw Pact states will have to improve performance markedly.

The persistent jamming of radio broadcasts, storage of much Western media and literature in "closed" library stacks, harassment of Western journalists and selective translation of Western books highlight Eastern actions which continue to violate the spirit and letter of the Final Act provisions on the freer flow of "information of all kinds". These governments maintain it is their right to protect their citizenry from "bad" information; what constitutes "bad" information is, of course, the prerogative of the state to decide. The record indicates that Poland and Hungary are somewhat less restrictive than their allies in this area, while nonaligned Yugoslavia is a good example of a Communist country which, for the most part, permits the free flow of information.

As to Western implementation, the Warsaw Pact states complain that the United States and Western Europe publish far fewer translations of East European books than these countries do of Western publications. This pattern of neglect, they charge, constitutes a failure to comply with the Final Act. Their argument, however, finds little support in the language of the Final Act, which calls for the gradual increase in the dissemination of such materials, but enjoins no numerical reciprocity of sales or translations. Eastern criticisms aside, however, it is true that the United States and Western Europe do not now promote as energetically as they could programs aimed at stimulating translations and sales of literature from Eastern Europe.

RECOMMENDATIONS

The Final Act offers many still-unrealized opportunities to expand and diversify the flow of information between the participating states. Exploitation of those opportunities, in the words of the Final Act, serves "the growth of confidence among peoples" and the "development of mutual understanding". Yet the Helsinki signatories have not taken the necessary actions to implement fully the information provisions of Basket III.

A Belgrade agenda

Collectively, the signatories can do little more than give renewed commitments to freeing the flow of information between them. The Commission believes, however, that such commitments are useful. It recommends that at Belgrade, after considering the actual record of implementation in this area, the participating states:

- agree to allocate suitable, rent-free facilities in central locations in their capitals and/or major cities as “Helsinki book stores” for the continuous display, sale and distribution of periodical and other literature imported for that purpose from other signatory states in the language of the exporting state;
- agree to expand direct contacts between authors and between authors and publishers, for example, by removing, where they persist, impediments to the reliable use of international mail, telephone and telecommunication facilities and by pledging that authors entering into contracts with publishers in other signatory states will be free to do so without official intermediaries; and
- agree to provide for the permanent accreditation of non-resident journalists from other signatory states, providing correspondents who are frequent visitors to one or more signatory states in which they are not resident with long-term, renewable, multiple exit-and-entry visas.

The Commission further recommends that in the course of reviewing past implementation of the information provisions of the Final Act, the signatories express their strong protest against continued jamming of international radio broadcasts and against recent harassment and expulsion of correspondents by certain signatory states.

American action

In signing the Final Act, the U.S. Government undertook obligations respecting its implementation which can only be fulfilled by private sector enterprises—publishers, filmmakers, broadcasters, book sellers and the like. The Commission believes that the government must demonstrate a sincere intention to help these private agencies take advantage of the Final Act’s provisions through more active public-private consultation and cooperation than has heretofore been in evidence.

Specifically, the Commission recommends that:

- the President reconsider the abolition of the Government Advisory Committee on International Book and Library Programs;
- that the United States Information Agency and the Bureau of Educational and Cultural Affairs of the Department of State develop programs to encourage and to assist book and periodical publishers to expand their sales in, and purchases from, Helsinki signatory states with nonconvertible currencies;
- that the Office of Education, in cooperation with the Department of State and the National Endowments for the Arts and Humanities, develop programs—such as annual government-funded prizes—to stimulate the translation into English of literary and other publications from the languages of the Hel-

sinki signatories, in particular from those of the Warsaw Pact states; and
 —that the Bureau of Educational and Cultural Affairs, in cooperation with the National Endowments, the American Motion Picture Association and the American Film Institute among other interested bodies, give special consideration to funding film festivals and retrospectives of U.S. cinema in Eastern Europe and the Soviet Union, as well as to the presentation of similar exhibits from that area in the United States.

INTRODUCTION

The section of Basket III which deals with the flow of information has three basic goals: to increase the freer and wider dissemination of printed, filmed and broadcast information of all kinds; to encourage cooperation and exchanges in the field of information; and to improve the working conditions of journalists.

Specifically, the Final Act engages the participating states to

... facilitate the freer and wider dissemination of information of all kinds, to encourage cooperation in the field of information and the exchange of information with other countries, and to improve the conditions under which journalists from one participating state exercise their profession in another.

Central to this section of Basket III is the initial Helsinki commitment to "facilitate the freer and wider dissemination of information of all kinds." The language following this initial promise merely attempts to identify areas where further progress can be made and suggests methods by which this progress can be achieved. (These specific areas will be covered in the corresponding sections.) Thus, what is at issue in the post-CSCE period are the participating states' commitments to promoting the freer flow of information, a flow that is by definition not regulated or controlled, and the participating states' actions in making this information as widely available as possible.

Given these considerations, it is reasonable for CSCE participants to expect that, prior to Belgrade, the other signatories will have taken at least initial steps to insure a flow of diverse information representing a variety of views, and that this information will have been made available to those who desire it.

The commitment to furthering the free flow of information subsumes a commitment to promote the various means by which such information originates. Thus, the participating states may also expect that the signatories will have acted to facilitate the work of journalists and to cooperate in projects increasing the exchange of information of all kinds.

This design for implementation is likely, however, to be somewhat slowed by the interpretation the Warsaw Pact states put on the information section of the Final Act. Although the Final Act enjoins the participating states to "facilitate the dissemination of information of all kinds", the Warsaw Pact believes that the type of information exchanged must be designed to meet the section's stated goals of "mutual understanding" and the "growth of confidence among peoples."

These goals cannot be attained, in the Eastern view, by the exchange of just any ideas, but only those of a positive, noncontroversial nature. Thus, Western comment on human rights in Eastern Europe, or any other sensitive subject, is considered interference in the East's internal affairs, and said to harm the development of good relations. Moreover, the Warsaw Pact maintains that governments, not individuals, should be responsible for choosing the kind of information disseminated between the participating states. In the Eastern view, governments have the responsibility for insuring that their citizens have access only to "good" information.

The West, on the other hand, maintains that an exchange of information which excludes certain facts and opinions does not constitute the free flow of ideas posited by the Final Act. Such an exchange would lead not to mutual understanding among peoples, but to an illusion of comprehension. Only uncensored exchanges of ideas, Westerners hold, contribute to a greater real knowledge and understanding of other peoples and thus, to a growth of mutual confidence.

NEWSPAPERS AND PERIODICALS

In the field of exchange of newspapers and other printed media, the Final Act identifies two major areas for implementing action:

The participating states express their intention . . . gradually to increase the quantities and the numbers of titles of newspapers and publications imported from the other participating states. . . .

. . . [and] express their intention to contribute to the improvement of access by the public to periodical and non-periodical printed publications imported (on the basis of conditions agreed to in the Final Act)

In addition, access is to be expanded by increasing the number of places where such publications are sold, improving access through public libraries and reading rooms, and increasing opportunities for taking out subscriptions.

Given this twofold approach to the flow of printed matter, CSCE signatories should be expected not only to promote the increase of numbers of publications, but also increasingly to insure easy access to them.

IMPORTS

Despite these specific injunctions, progress in this area of the Final Act has been minimal at best. To illustrate: a recent survey of one U.S. daily newspaper and four weekly news magazines indicated that Warsaw Pact imports of these publications increased but little in the first year of CSCE activity. In fact, the International Herald Tribune, the Paris based New York Times/Washington Post publication, reported a drop in Warsaw Pact sales from 1,757 copies in 1975 to 1,645 copies in 1976. The other publications polled reported slightly better records. Newsweek, despite the Soviet Union's cancellation of a block order of 100 copies intended for newsstand sale, increased its circulation in the area by 5 copies, and Business Week reported a gain of 7. Time and U.S. News & World Report scored the largest increases with gains of 98 and 150 copies, respectively. These figures, however, can be rather misleading in terms of actual public consumption. In spite of U.S. News & World Report's 150-copy increase, a *perusal of its mailing list*

indicates that the overwhelming majority of subscribers (the magazine has no newsstand sales in the area) are either foreign embassies or official institutions.

The pattern of consumption of these publications was not consistent throughout the Warsaw Pact states. (Yugoslavia, a nonaligned Communist nation, is not included here, as reports indicate that publications there receive largely "normal" distribution.) Poland increased its imports by only 4 copies compared to Czechoslovakia's 72, but on the whole imports 2,166 copies to Czechoslovakia's 797. In general, however, it appears that the Warsaw Pact states have done little "gradually to increase" the import of U.S. news publications. This does not mean that they have not made at least some gestures in this direction.

In January 1976, the Soviet Union announced, in the spirit of Helsinki, the additional purchase of copies of the New York Times and the Washington Post. Even with this increase, however, the two papers report their total circulation in the Soviet Union to be 34 and 15 copies respectively. Soviet officials have informed U.S. diplomats that the high, hard-currency costs of importing the Times and Post by air have and will prevent the U.S.S.R. from expanding domestic distribution of those papers. This lack of hard currency probably does play some role in limiting the numbers of U.S. publications these countries can afford to purchase. Nonetheless, reports from some publishers indicate that while the climate for increased sales would be good in Hungary or Poland should currency problems be resolved, the political climate in Bulgaria or Czechoslovakia precludes such a possibility. The Soviet press importing agency often fails even to answer mail on the subject.

It proved impossible to compile comprehensive statistics on the numbers of Soviet and East European newspapers and magazines entering this country. In addition, attempts on behalf of the Commission to obtain this information from the Warsaw Pact states, who do keep such records, proved unsuccessful. Three countries, East Germany, Bulgaria, and the U.S.S.R., responded to inquiries, but failed to provide conclusive figures.

In East Germany, officials were unable to provide statistics, but estimated that only a dozen or so copies of each major GDR publication are circulated in the United States. Similarly, Bulgarian sources claimed that only seven copies of its two leading papers reach the United States. The U.S. Embassy in Sofia, however, sends 12 copies of these journals to U.S. readers. Moreover, one U.S. university reports spending \$500 annually on Bulgarian publications. (The cost of one paper is three cents.) U.S. officials making a similar inquiry in Moscow were sent from one department to another, and finally were told to write a letter. Months later, the letter of reply disclosed that the information sought was "not available".

One of the only sources of even incomplete figures on U.S. newspaper and periodical imports is the U.S. Customs Bureau which keeps records on bulk imports valued at \$250 or more. Customs figures indicate that Soviet newspapers imported in bulk shipment for commercial sale in the United States in 1975 were valued at \$5,900. Similar shipments in 1976, however, had a net worth of \$25,100, an increase

of over 400 percent. In addition, bulk imports of Romanian periodicals, valued at \$500 in 1975, doubled to \$1,000 in 1976. These figures, which reflect only shipments worth more than \$250 and only those intended for newsstand sale, also do not reflect the numbers of newspapers and magazines subscribed to by American citizens, libraries and other institutions. When considering that one copy of the Soviet newspaper *Pravda* costs less than 6 cents, these figures reflect the import of a considerable number of copies of Soviet newspapers.

Other incomplete statistics provided by the U.S. Post Office show that 294,371 kg of airmail exclusive of letters and parcels (i.e., printed matter) reached the United States from the U.S.S.R. in 1976. This compares with 56,654 kg mailed from the United States to the U.S.S.R. Due to the insignificant number of letters sent internationally by surface mail, the Post Office statistics in this area, exclusive of parcels, are also good indicators of the amount of printed matter received or mailed by the United States. These figures show that in 1976 the United States received 721,292 kg from the U.S.S.R., while mailing only 282,724 kg.

Since the Commission was unable to obtain, even from East European sources, reliable figures on the export of newspapers and magazines to the United States, there is considerable doubt as to the reliability of statistical analyses for evaluating the flow of information East to West. This is the argument, however, which the Soviet Union and some East European countries use when speaking of information exchange. It would appear, however, that accurate circulation figures are nearly as difficult to obtain in Eastern Europe as they are in the United States, where there is no centralized repository. In addition, the statistical approach ignores the problem of access to foreign publications, the second major area of Basket III information provisions.

ACCESS

Although the Final Act calls for improved access to the publications of the other participating states, Warsaw Pact patterns of conduct in this sphere appear little changed in the post-CSCE period. Reports from a variety of sources indicate that political considerations still prompt some East European countries to restrict the circulation of Western non-Communist publications. In most countries, in fact, no progress has occurred in any of the three major access areas outlined by the Final Act.

U.S. newspapers and magazines continue to be sold almost exclusively in tourist hotels and other locations not frequented by the local citizenry. In a gesture of compliance with Helsinki provisions, Czechoslovakia¹ and Bulgaria² announced in April 1977, the public sale of a few Western publications. Nonetheless, these were available only in small numbers and remained largely out of the reach of the general populace. In Bulgaria, sales were limited only to tourist hotels—a step forward inasmuch as these publications had previously been impossible even for foreigners to obtain. Although some papers were available on public newsstands in Czechoslovakia, these were

¹ Renters, "Czechs Quietly Put Newspapers From West on Sale on Newsstands," *New York Times*, Apr. 1, 1977.

² "Foreign Papers Sold in Bulgaria," *Washington Post*, Apr. 16, 1977.

largely publications from CSCE signatories whose languages are incomprehensible to most Czechoslovaks—Turkish and Swedish, for example.

With the notable exception of Poland, which maintains public reading rooms offering Western publications, the Warsaw Pact countries continue to restrict general access to Western media in public and university libraries. Western materials are held in "closed stacks" to which only those with special passes are allowed access. Access to U.S. Information Service (USIS) libraries and reading rooms is also still limited, largely by the deterring presence of uniformed police guards outside these facilities. These obvious deterrents are not employed in Poland, however, or in Hungary where the USIS library in Budapest draws approximately 600 visitors a month.

Subscriptions to United States and Western printed media remain almost impossible for the average Warsaw Pact citizen to arrange, although these governments again explain this by a shortage of hard currency. On the other hand, most Eastern countries have continued to impede the mail delivery of Western newspapers sent by friends and relatives abroad.³

In all likelihood, U.S. performance since Helsinki in increasing imports of Eastern publications has been similar to Eastern performance, but the absence of overall statistics makes this impossible to ascertain. It is unlikely that public demand for such publications has risen to a level that would encourage distributors to increase imports significantly, nor has the U.S. Government undertaken programs designed to stimulate these imports.

On the other hand, Eastern press is readily available in public and university libraries, where readers are not required to have special clearance to obtain these materials, and subscriptions are easily arranged. One Harvard law professor, interested in the availability of Eastern press in the United States, recently managed to collect copies of 22 different Soviet newspapers in 1 hour from newsstands and libraries in Cambridge's Harvard Square.

Additionally, Commission attempts to obtain Eastern press circulation figures from subscription agencies yielded no statistics, but many offers to arrange subscriptions. Thus U.S. performance appears to be more in keeping with the Helsinki commitment to "facilitate the freer and wider dissemination of information of all kinds." Any citizen who wants to read Eastern press publications can obtain them in a variety of ways.

FILMS AND BROADCAST INFORMATION

The CSCE Final Act encourages the participating states to effect the "wider showing and broadcasting of a great variety of recorded and filmed information from the other participating states" through a variety of channels. Primarily the signatories signaled their intention to:

... encourage the competent bodies and enterprises to make a wider choice and effect wider distribution of full-length and documentary films from the

³ "First Semiannual Report," p. 32.

other participating states and to promote more frequent noncommercial showings

. . . promote the coproduction and exchange of films and of radio and television programmes

Other CSCE-related initiatives include exchanges between film libraries and institutes, contacts among film archivists and international events in the field of cinema.

FILM EXCHANGES

Exchange and greater dissemination of broadcast information, and films in particular, remain one of the more underdeveloped areas of CSCE cooperation. The Soviet and East European states often charge the United States, and the West in general, with slighting modern East European cinema, some of which has met with Western critical acclaim. Another common complaint notes that even when major full-length films are purchased, they rarely receive general distribution in larger U.S. theaters. Filipp Yermash, Chairman of the Soviet State Cinematography Committee, has gone so far as to insinuate that this lack of distribution is part of a special campaign directed against Communist bloc cinema.⁴

Soviet preoccupation with numerical reciprocity has figured prominently in the charges leveled against the Western film world. Soviet statistics indicate, however, that the 50-60 Western films purchased each year are largely matched by Western purchases on the Soviet market.⁵ In addition, figures compiled by Frederick Starr of the Kennan Institute for Advanced Russian Studies, indicate that, on the average, the Soviet Union has purchased only one more U.S. feature-length film a year than U.S. firms have bought from the Soviet Union, since the lapse of the 1958 formal film agreement.⁶ Thus, the most serious problem of U.S. implementation in this area lies not so much in the number of Warsaw Pact films purchased, but in the frequency of their screenings in U.S. theaters.

Audiences in the other East European countries are well acquainted with American films, however, and many of these countries broadcast a number of vintage U.S. films and entertainment serials. U.S. audience awareness of Eastern film, on the other hand, is minimal at best.

According to Mr. Griffith Johnson, Vice President of the Motion Picture Association of America, the insignificant number of films purchased by the Warsaw Pact countries in comparison to other parts of the world, coupled with the poor prospects for making a profit from showings of Eastern films, has made distribution divisions of major U.S. studios unenthusiastic about the East-West market. Indeed, U.S. experience with such films has shown that their audience appeal is so narrow as to render them unsuitable for major theaters. Columbia Pictures, which several years ago purchased the Soviet film, "Liberation," has yet to interest one major theater in showing it. Soviet complaints

⁴ Filipp T. Yermash, "Film Exchange: Light and Shadow," Facts on Cultural Exchange, Novosti, 1976.

⁵ *Ibid.*, p. 27.

⁶ Frederick S. Starr, "U.S./U.S.S.R. Cinema Exchange," Discussion Paper prepared for a Conference on American-Soviet Exchanges, sponsored by the State Department at Airlie House, Va., June 16-18, 1976, p. 3.

in this area, although fairly accurate as regards the frequency of Eastern film screenings, seem to ignore the fact that theaters in the United States cannot be forced to screen unprofitable films.

In spite of the fact that U.S. films comprise a larger percentage of the cinema fare in the Warsaw Pact states than their films do here, reports indicate that the average moviegoer in Sofia is likely to have as unclear a picture of life in the United States as his counterpart in New York may have about life in Bulgaria. Warsaw Pact country fare continues to run heavily to screening of only those films that portray the negative side of life in the United States or those that are pure entertainment vehicles. Movies such as "They Shoot Horses, Don't They" and "That's Entertainment" are typical of standard U.S. movies found in Warsaw Pact theaters.

Ideological considerations also play a role in the low number of Warsaw Pact films shown in the West. The Soviet Union and some East European countries are often interested in selling films portraying only the ideologically pure, i.e., Socialist realistic, aspects of life in the Warsaw Pact. Such themes make pretty poor box office in Western theaters. Films such as "Zerkalo," a sophisticated Soviet production by the talented, idiosyncratic director, Andrei Tarkovsky, have often been refused for foreign distribution. Soviet authorities declined the Cannes Film Festival invitation to submit "Zerkalo," despite hints that the film would be a strong prize contender.

Activity in the exchange of current feature-length films since CSCE does not indicate that any of the aforementioned obstacles to increased exchange are likely to be removed in the near future. The Soviet Union and East European countries maintain that they are far ahead in reciprocity of numbers and that the next step is up to the West. Western distributors, on the other hand, are not likely to risk additional financial losses to increase the dissemination of newer Eastern films, nor does the Final Act require them to.

In this as in other areas of CSCE, where the Eastern states seek a better numerical balance, the Final Act refers only to the "wider dissemination" of films and broadcast information from the other participating states. The signatory governments are urged to promote this dissemination, but there is nothing in the Final Act that calls for one country to show as many films as another. On the contrary, CSCE recognizes that people's taste cannot be legislated and therefore suggests methods by which larger audiences might be cultivated. Cognizant of its commitment to seek ways of achieving a broader dissemination of Warsaw Pact films, the U.S. Government has recently proposed to the U.S.S.R. an exchange of young film directors, an initiative which would give Soviet participants the chance to learn techniques more appealing to U.S. audiences.⁷ The United States has also suggested the exchange of film festivals which could lead to greater U.S. awareness of East European cinema. Although this proposal was initially favorably received, the Soviets then delayed action until the project died.⁸

⁷ "First Semiannual Report," p. 54.

⁸ CSCE Hearings, Basket III, vol. III, p. 5.

If new Warsaw Pact films are infrequently screened in major U.S. theaters, Eastern cinema in general receives wide exposure at another level of U.S. film life. Museums, film institutes and universities are particularly active in arranging not only individual showings of East European productions, but film festivals as well. In 1975 and 1976, several Soviet and Polish film festivals were sponsored by the American Film Institute which then arranged for these films to be shown in other museums in various parts of the country. The Kennan Institute, in Washington, D.C., also presented a festival of modern Soviet cinema. The Museum of Modern Art in New York hosted a retrospective of 20 East German films, and the Pacific Film Archive in Berkeley, Calif., sponsored screenings of Soviet (including Ukrainian and Georgian), Czechoslovak, Hungarian, East German, and Polish films. It is at this level of American activity that future audiences for East European cinema are being cultivated. In the words of Tom Luddy of the Pacific Film Archive: "... American students and people in the arts in this country have very little real interest—outside specialized circles—in knowing more about the cultures of Eastern Europe," but he adds, "audiences are getting bigger and better."⁹

Film festivals and university showings, coupled with screenings in smaller arts theaters, insure that East European film reaches a far larger number of viewers than is often charged. One distributor of Soviet cinema, for example, reported that his firm distributed approximately 44 different Soviet 35mm films to theaters in 32 U.S. cities between August 1975 and December 1976. The estimated attendance at these showings totaled 48,950, in cities as diverse as Hiram, Ohio; Blacksburg, Va.; and Provo, Utah. In addition, reports from only a few of the U.S. distributors of East European film, indicate that at least 156 Soviet and 77 East European films are available in 16mm.

COOPERATION

The most notable achievement of cooperation between United States and Warsaw Pact film studios in the post-CSCE period has been the release of the United States-Soviet joint production, "The Bluebird," and the subsequent conclusion of a preliminary agreement on a further joint venture, "Sea Pup."

In other areas of CSCE cooperative endeavor, a delegation of the Motion Picture Association of America, headed by President Jack Valenti attended the Moscow International Film Festival in July 1977. Exchanges of United States and Eastern film historians and experts have also taken place in the post-CSCE period, with the Pacific Film Archive playing host to Soviet directors Chkheidze, Shengelaya, Mikhailovkov, Dvigubsky, and Konchalovsky; Hungarian film expert Yvette Biro; and Werner Hecht of the Brecht Archive in East Berlin. In addition, American film expert Henry Bietrose recently visited Hungary where he lectured on U.S. film. Eastern and Western film archivists have also continued to exchange views, most recently, at the Federation of International Film Archivists' annual meeting held this year in Bulgaria. U.S. members of the Federation reportedly par-

⁹ Letter of Tom Luddy to the Commission, Apr. 20, 1977.

ticipated in the meeting's seminar, "The Influence of Silent Soviet Cinema on World Cinema."

Cooperation in the field of broadcast information has also been fairly active in the post-CSCE period. The U.S. networks, ABC, NBC, and CBS have signed cooperative agreements with the Soviet Union providing for technical assistance and the exchange of sports, entertainment and cultural programs. In addition, the Public Broadcasting Service (PBS) has begun discussion of possible areas of cooperation with the U.S.S.R. Fred Cohen, who represented PBS, has credited the Helsinki accords with facilitating these talks.

In other cooperative efforts, the U.S. Information Agency (USIA) has reported some success in placing non-political broadcast materials with Hungarian, Polish, and Romanian media. Hungarian TV has broadcast several programs dealing with East-West relations, featuring interviews with U.S. officials, and uncensored debates between Eastern and Western journalists. In a similar effort, NBC recently acted on a Soviet suggestion and televised a 90-minute debate between three Soviets and three Americans on the subject of human rights. That program was subsequently broadcast by stations in the U.S. public television network (PBS).

In general, the exchange of broadcast and film information is one area of CSCE cooperation where much remains to be done. Although the Final Act does not demand direct reciprocity in the numbers of films shown in the respective participating states, United States audiences are sadly ignorant of East European film. While it is true that theaters cannot be forced to screen certain films and audiences cannot be made to watch them, the U.S. Government has not yet lent substantial support to programs which could conceivably stimulate more interest in Eastern film. On the other hand, Eastern audiences, while better acquainted with Western film, have access only to a politically restricted selection of that film. Neither state of affairs constitutes the type of conduct envisioned by the Final Act.

RADIO BROADCASTS

Although the Basket III section on information begins with the general commitment to "facilitate the freer and wider dissemination of information of all kinds", the short, subsequent section on radio broadcasting is less specific, a fact that can be attributed to the hostility of the Warsaw Pact states to foreign radio broadcasts even in the negotiating period.

One of the most difficult areas of Basket III negotiation, the language on radios was a major point of contention between East and West. The East insisted on its responsibility to protect its citizens against harmful information—what constitutes harmful information would, of course, be the government's decision. The West, on the other hand, maintained that a free, unhindered flow of information was a fundamental human right. The Basket III language:

The participating states note the expansion in the dissemination of information broadcast by radio, and express the hope for the continuation of this process so as to meet the interest of mutual understanding among peoples and the aims set forth by this Conference. . . .

is the compromise between the two views.

The Warsaw Pact nations continue to react with hostility to the dissemination of information broadcast into their states by radio. The majority of complaints center on the broadcasts of Radio Free Europe and Radio Liberty, which, these states complain, are conducting unwarranted interference in their internal affairs, a reference to Principle VI of the Final Act. Claiming that the radios do not promote "mutual understanding among peoples", Czechoslovakia, Bulgaria and—sporadically—Poland continue to jam Radio Free Europe; the U.S.S.R., Radio Liberty; and East Germany, the Radio in the American Sector (RIAS). This physical interference is accompanied by a vitriolic press campaign against the stations.

Even those countries which have ceased jamming operations have joined in the press denunciations. A recent Romanian commentary labeled RFE, "the viper's nest of hostile propaganda and red-herring policy of the most reactionary circles of the West."¹⁰ The Voice of America, BBC, and Deutsche Welle, though no longer jammed, have likewise come in for their share of criticism as reactionary organizations. The Czechoslovak press has also termed VOA an "espionage radio."¹¹

The Eastern attitude toward these stations was summed up by Leonid Brezhnev in an address to the East Berlin Conference of European Communist parties on June 29, 1976:

We deem that cultural exchanges and information media have to serve human aims, the cause of peace, the consolidation of trust and friendship between nations. At the same time, on the territory of some European countries, well-known undermining radio stations, which usurped for themselves the name of "Liberty" and "Free Europe" are carrying out their activity. Their very existence poisons the international atmosphere. It is a direct challenge to both the spirit and the letter of agreements reached in Helsinki. The Soviet Union energetically calls for the cessation of the activity of these weapons of psychological struggle, psychological warfare.

There is a measure of inconsistency in the Communist position. Shortly after he was released from prison in an exchange for Soviet political prisoner Vladimir Bukovsky, Chilean Communist Party leader Luis Corvalan told a French interviewer in Moscow that broadcasts from the U.S.S.R. to Chile constituted "a formidable weapon", one which Chilean officials had found especially offensive. The Soviet Union, Corvalan said, "has put a very powerful radio station at our disposal. Our broadcasts are received perfectly almost everywhere in Chile. . . . For Chileans, it is truly Radio Liberty."¹²

In fact, at latest count, Soviet Union broadcasts 1,751 hours a week in 71 languages throughout the world, including 72 hours to the United States. Charges that Western broadcasts concerning internal Soviet affairs violate the Final Act are further suspect when considering the content of similar Soviet broadcasts:

Human Rights.—"A North Carolina court sentenced (Ben Chavis) to 34 years imprisonment because he organized demonstrations against the dirty war in Vietnam and protested against the racist outrages in his home state. . . . I could call your attention to more violations of civil rights in the United States but I am sure you have read about them in your papers. It does look as if the hysterical preaching to the Soviet Union about democracy is intended to distract public

¹⁰ Bucharest Domestic Radio, Apr. 1, 1977.

¹¹ "Second Semiannual Report," pp. 32-33.

¹² "Le Nouvel Observateur," Feb. 14-20, 1977, p. 63.

attention from what is going on in America. . . . (Radio Moscow in English to North America, February 5, 1977.)

Disarmament.—" . . . the arms race has accelerated monstrously. The responsibility for this lies with the military industrial complexes of the United States and other NATO countries. It is under their pressure that the United States and other NATO politicians are sending more and more of the taxpayers' money down the arms race drain. . . ." (Radio Moscow in English to North America, June 30, 1977.)

Vietnam.—"Although the present American administration admits that the Vietnam war was a mistake, they far from deplore the deaths of Americans and Vietnamese in it. Washington is making assurances there is no need to ask anyone for forgiveness, to punish oneself or to feel guilty. . . ." (Radio Moscow in English to North America, June 6, 1977.)

Energy.—"Many Americans . . . want to know whether a crisis is really looming or someone is bamboozling the public. . . . The present Administration has shown a penchant for moralizing but some Washington officials interpret moral loosely. . . ." (Radio Moscow in English to North America, April 23, 1977.)¹³

Radio Moscow, in addition to its regular English-language broadcasts, has also taken to offering U.S. radio stations a dozen, *free*, weekly, biweekly, and monthly taped shows "as a source of first-hand information for people interested in the Soviet Union."¹⁴

The Final Act clearly sanctions such activities, propagandistic or not. It does not justify government efforts to censor or restrict the program content of international radio broadcasts. The Helsinki accord states that the participating states will act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights. The declaration states, in part:

Everyone has the right of free opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

This view is in direct opposition to Eastern claims that governments must decide what information their citizens should hear. The United States, on the other hand, regards international radio broadcasting as an important medium for the free flow of information, called for in the Helsinki accord and reaffirmed in the Universal Declaration of Human Rights. In a statement March 22, 1977, President Carter approved the construction of 16 additional 250-kilowatt transmitters for broadcasts to the Soviet Union and Eastern Europe. His statement included the following:

The Administration firmly supports U.S. international broadcasting as part of our commitment to the freer flow of information and ideas. Among the most valuable instruments we have for this purpose are our international radios—the Voice of America (VOA), and Radio Free Europe/Radio Liberty (RFE/RL)—which for many years have been a vital part of the lives of peoples of Eastern Europe and the Soviet Union.¹⁵

In spite of repeated charges that the Radios' broadcast content constitutes a violation of the Helsinki accord, the language of the Final Act clearly calls for the "freer and wider dissemination of information of all kinds." The Soviets' and East Europeans' vehement reaction to the dissemination of an alternative source of information shows no post-Helsinki softening in their pre-Helsinki stance.

¹³ CSCE Hearings, Basket III, vol. III, pp. 43-44.

¹⁴ Letter of Ghell A. Shakov, editor in chief, Radio Moscow, mailed Feb. 26, 1977, to KUKI Radio, Ukiah, Calif.

¹⁵ "Message from the President of the United States," Congressional Record (Mar. 22, 1977), p. H2359.

WORKING CONDITIONS FOR JOURNALISTS

The Final Act seeks to "improve the working conditions of journalists of one participating state working in another." Specifically this section of Basket III attempts to facilitate the freer movement of journalists pursuing their profession by charging the participating states to—

... examine within a reasonable time scale requests from journalists for visas ... grant to permanently accredited journalists, on the basis of arrangements, multiple entry and exit visas ... facilitate the issue to accredited journalists ... of permits for stay in their country of temporary residence ... ease, on a basis of reciprocity, procedures for arranging travel by journalists ... in the country where they are exercising their profession. ...

Secondly, the Final Act seeks to assist journalists in performing their work, calling upon the participating states to—

... increase the opportunities for journalists of the participating states to communicate personally with their sources ... grant to journalists ... the right to import, subject only to its being taken out again, the technical equipment necessary for the exercise of their profession ... enable journalists ... whether permanently or temporarily accredited, to transmit completely, normally and rapidly by means recognized by the participating states to the information organs which they represent the results of their professional activity. ...

Finally, CSCE seeks to protect journalists from governmental interference:

The participating states reaffirm that the legitimate pursuit of their professional activity will neither render journalists liable to expulsion nor otherwise penalize them. If an accredited journalist is expelled, he will be informed of the reasons for this act and may submit an application for reexamination of his case.

As in other areas of Basket III, the Soviets and East Europeans have a mixed record of compliance with regard to journalists. In some areas—the issuance of multiple entry and exit visas, for example—their cooperation has been good; in others, their patterns of conduct remain unchanged, and in some cases have worsened. In still other instances, changes presumably undertaken to ease the journalists' working conditions have—perhaps unintentionally—served only to complicate the newsman's life.

FREEDOM OF MOVEMENT

Provisions easing the freer movement of journalists are unevenly implemented. Although a few East European countries have not concluded agreements to issue multiple entry and exit visas, many of these do not have accredited resident journalists, and entry visa requests are usually satisfied within a reasonable period of time. The Soviet Union, where journalists have the greatest need for multiple entry and exit visas, concluded an agreement with the United States instituting their reciprocal issuance in October 1975. Of course, as one Moscow correspondent pointed out, they are issued only to officially accredited journalists, a status that is in itself often difficult to obtain. The United States is also negotiating with the GDR for a similar agreement, but accord has been delayed by the East Germans' refusal to grant such visas to journalists resident in Bonn or West Berlin.

In March 1976, the U.S.S.R. also modified travel restrictions for newsmen, requiring them to notify the Foreign Ministry of proposed travel, rather than to ask permission for it. Although this has eased travel somewhat, journalists can still be stopped from making a trip. Two Western newsmen in Moscow were recently informed that travel to and hotel accommodations in Voronezh were unavailable for their trips, although they later discovered this had not been the case.

East European countries have made it apparent, however, that they do not intend to change their patterns of conduct when they do not consider it in their best interests to do so. Thus, in March 1977, the Czechoslovak Government informed the U.S. Embassy that journalists would not be granted entry visas unless they agreed not to contact dissidents. Any newsman breaking this pledge would be expelled. The Czechoslovaks also gave notice that newsmen whose work was considered objectionable would be barred.¹⁶ The Romanians, in a similar move, barred a New York Times correspondent on the grounds of his supposedly negative reporting. Following U.S. Embassy representations, the Romanians reversed their decision, but only after the correspondent had left Eastern Europe for home leave.¹⁷

WORKING CONDITIONS

CSCE pledges to facilitate the journalist's daily pursuit of his activities have also received unequal implementation in Eastern Europe. While United States and Western correspondents report little interference with the transmittal of their materials to home organizations (although telex facilities in Poland "broke down" during the food riots in June 1976), or with the import of needed technical equipment, the East European governments do continue to obstruct journalists in other ways.

Access to unofficial sources of information is often blocked through warnings to these sources, intensive surveillance and actual physical intervention. Washington Post correspondent Michael Getler, for example, reported from Prague in February 1977, that during a visit to the Czechoslovak capital he was regularly followed by three cars of plainclothes police agents:

On two occasions,

He wrote—

one agent darted into a building I was headed for just before I entered. Within moments, I caught sight of him, always on the landing above me on the staircase. Then when I reached the apartment I wanted, he came rushing down the stairs, brushing up against me and brandishing his most evil look.

The police never actually stopped me from seeing anybody who happened to be at home, although on one occasion, my ring went unanswered after a secret service man had run up to the top-floor apartment first.¹⁸

The Soviet Union and the GDR, in an effort to ease reporters' access to official sources, announced in July 1976, that interviews could be requested directly from officials without the previously necessary

¹⁶ Murray Seeger, "Prague Imposes Tougher Rules on West's Reporters," Washington Post, Apr. 11, 1977.

¹⁷ Letter of Malcolm W. Browne to the Commission, May 2, 1977.

¹⁸ Michael Getler, "Two Cars Began Following Me . . ." Washington Post, February 6, 1977.

clearance through the Ministry of Foreign Affairs. Unfortunately, this change has actually brought somewhat less access to officials who, without Ministry intervention, often refuse interviews. Complicating this situation has been the recent Soviet press campaign linking journalists to espionage activities. One high Soviet official cancelled an appointment with a U.S. correspondent after the Ministry of Foreign Affairs advised him of press allegations that the journalist was a CIA agent.¹⁹

In another positive move, the Soviet Union recently permitted the opening of a UPI branch office in Leningrad in return for the opening of a TASS office in San Francisco. Reports from Leningrad indicate, however, that the correspondent there has been subjected to various harassments, including malicious tampering with his car and actions directed against his wife.²⁰ Moreover, Soviet authorities refused, without specifying the reasons, to grant accreditation to another UPI correspondent the agency wanted to send to its Moscow Bureau.

On the side of U.S. compliance, the Soviet Union recently charged that the arrest of a TASS correspondent in Virginia constituted a violation of the Helsinki accords. Actually, the correspondent was arrested for repeatedly ignoring a traffic summons.²¹

FREEDOM FROM INTERFERENCE

Soviet and East European compliance with the Helsinki pledges protecting journalists from expulsion and other forms of penalization has actually deteriorated since the accords were signed. For the first time in 5 years, an American correspondent in Moscow was officially warned in December 1976, that his "unacceptable" reporting could have serious consequences.²² In December 1975, and again in December 1976, two West German correspondents were expelled from the GDR in retaliation for their critical reporting. The second of them, Lothar Loewe of ARD-TV, has termed any hope of "the Warsaw Pact countries taking seriously their Helsinki commitment to facilitate a freer flow of information . . . fallacious."²³ In addition, February of 1977 marked the first time in 7 years that a U.S. correspondent was expelled from Moscow, amid charges that he was linked with espionage activities.²⁴ In retaliation, the United States expelled a TASS correspondent, an action the Soviets and some Americans labeled a CSCE violation.²⁵

Czechoslovak harassment of journalists has continued undiminished in the post-CSCE period. Three weeks after the Final Act was signed, two Dutch reporters were expelled from the country while performing their normal professional duties. The editor of a Swedish religious weekly, traveling by train through Czechoslovakia en route to Hungary, was detained in September 1975, and deported.

¹⁹ David Shipler, "Soviet Expels AP Reporter: Harasses Other Newsmen," *New York Times*, Feb. 5, 1977.

²⁰ *Ibid.*

²¹ "Second Semiannual Report," p. 34.

²² Reuters, "U.S. Reporter in Moscow Is Warned About Articles," *New York Times*, Dec. 22, 1976.

²³ CSCE Hearings, Basket III, vol. III, p. 168.

²⁴ Shipler, *op. cit.*

²⁵ Don Oberdorfer, "U.S. Retallates, Expels Soviet Reporter," *Washington Post*, Feb. 6, 1977.

Antijournalist activities increased in 1977 after the issuance of the human rights manifesto, Charter '77. In separate incidents in February 1977, Czechoslovak authorities removed a West German and two U.S. correspondents from trains leaving the country. One of the U.S. journalists was denied permission to contact the U.S. Embassy, while the other was actually detained on East German territory by Czechoslovak police. Both men were searched and materials confiscated. Later in February, two French women writing for *Elle* magazine were arrested and deported, and a reporter from Spain's trade union daily was detained by police for 10½ hours merely for attempting to enter the building where a Charter '77 spokesman lived. Dutch correspondents accompanying Foreign Secretary van der Stoep were extensively followed, to the point where their freedom of movement was severely restricted. In one bizarre incident, two resident news service correspondents were sprayed with irritant gas in the street outside the home of former foreign minister Jiri Hajek, a Charter '77 organizer.²⁶

The most recent and to date most severe harassment of a U.S. journalist occurred when Robert Toth, of the *Los Angeles Times* was detained in Moscow and initially accused of receiving classified material contained in a report on parapsychology. Apparently in an attempt to gather evidence to be used against recently jailed activists, Toth was interrogated for 13½ hours and was barred from leaving the country until the KGB had questioned him extensively about his contacts.²⁷ Upon his departure, however, the Soviet press renewed charges that he was an espionage agent.

Generally speaking, recent Soviet and East European actions signal an overall deterioration in Warsaw Pact treatment of journalists, to a level below pre-CSCCE standards. Eastern sensitivity to the current human rights unrest and to Western reporting of this unrest has triggered an antijournalist campaign unprecedented in recent years. This campaign seems to indicate a general unwillingness to refrain from interference in the flow of information and in the work of newsmen facilitating that flow. The Soviets and some East Europeans justify their interference on the grounds that Western critical reporting violates CSCCE by undermining the Helsinki spirit of cooperation and presenting an unrealistically negative view of life in the East. While many Westerners are likely to share the East's complaints about negative reporting, the Helsinki Final Act calls for the freer flow of information. A freer flow cannot be achieved through governmental interference, but rather through the lack thereof.

BOOKS AND PUBLISHING

Predicated on the commitment to "facilitate the freer and wider dissemination of information of all kinds", desired conduct in the area of book exchange and publishing is further defined by a variety of specific provisions. The participating states commit themselves to promoting increased book exchange by:

... encouraging competent organizations and relevant firms to conclude agreements and contracts and contributing ... to a gradual increase in the number and

²⁶ CSCCE Hearings, Basket III, vol. II, pp. 299-300.

²⁷ Peter Osnos, "Soviets to let American Newsmen Out," *Washington Post*, June 17, 1977.

diversity of works by authors from the other participating states available in the original and in translation in their libraries and bookshops . . .

. . . improving the opportunities for reading and borrowing these publications in large public libraries and their reading rooms as well as in university libraries.

. . . promoting, on a wider scale, the translation of works in the sphere of literature and other fields of cultural activity . . . and the publication and dissemination of the translated works by such measures as : encouraging more regular contacts between interested publishing houses . . . encouraging, by appropriate means, the publishing houses of their countries to publish translations . . . promoting between their countries the professional activity and cooperation of translators . . .

. . . promoting, where deemed appropriate, an increase in the number of sales outlets where books by authors from the other participating states, imported in the original . . . and in translation, are for sale . . .

. . . facilitating . . . international contacts and communications between authors and publishing houses . . .

The Final Act also promotes exchanges between libraries and further cooperation in the form of international book fairs and exhibitions.

BOOK IMPORTS

The dissemination of books is one area of CSCE where the Soviet Union and Warsaw Pact states have sought to put the West on the defensive. Evoking a multitude of statistical comparisons, the Soviet Union, supported by similar Warsaw Pact pronouncements, claims to outdo the West in providing a flow of information. According to current Soviet statistics, almost 10,000 books were translated from 48 foreign languages and published in 360 million copies during the 5-year period 1971-75. Translations of works by American authors increased 33 percent, by British 16 percent, by French 75 percent, and by German 12 percent, in this period compared to the preceding one.²⁸

Although these numerical superiority claims are probably correct, Western sources, lacking centralized organs of control and oversight, are hard put to verify the statistics quoted, some of which appear to be off the mark. For example, Soviet press analyses of book publishing data cite UNESCO figures to the effect that "the Soviet Union publishes more literary translations than the USA and Britain combined." That line of reasoning overlooks the fact that in the United States and Great Britain there is only one national language, while there are no less than 50 "national" Soviet languages.²⁹ It is also worth noting that the UNESCO figures for subsequent years show a decline in Soviet translations.

Data on American books translated in the U.S.S.R. is available only for 1973 and 1974, but these years indicated that over half the translations (64 percent) were of a scientific-technical nature. Only 5.3 percent in 1973 and 11.8 percent in 1974 were translations of historical or socioeconomic topics and the fictional works translated into Russian in these years were by those officially sanctioned U.S. authors translated frequently before. By far the greatest diversity of fictional material was published in non-Slavic languages, particularly the Baltic languages and Georgian, which are incomprehensible to most of the Slavic-speaking population.

²⁸ TASS, Feb. 3, 1977.

²⁹ B. I. Stukalin, "Book Exchange: How Matters Really Stand," Facts on Cultural Exchange, Novosti, 1976.

The only works of U.S. author Saul Bellow, 1976 Nobel Laureate, to be published in the Soviet Union, for example, included a few minor short stories translated into Estonian. Even those authors who are officially sanctioned, as is Kurt Vonnegut, run the risk of having their works "improved." The version of "Slaughterhouse Five," recently translated in the journal *Novy Mir*, has been carefully edited to exclude all uncomplimentary references to Communists and Russian soldiers. Thus, when the author writes of two Russian soldiers looting a clock factory, others raping and burning, and still another being too stupid to understand, the text is carefully changed to omit these references, as well as one to the Soviets' "present occupation of Dresden."

The United States, moreover, has not been totally remiss in importing and translating Soviet and East European works. The Library of Congress alone has received and catalogued 2,910 works translated from CSCE languages in 1975 and 1976. (This record is not representative of all U.S. translations of this period, as is witnessed by the fact that it does not include the recent University of Iowa translation of modern Bulgarian poets.) Of these 2,910 works, 360 were originally in Russian, 222 from the Soviet period and originally published in the U.S.S.R. Only translations from French and German were more numerous. A topical breakdown indicates that about half of these were scientific-technical works, slightly less than the ratio found in Soviet translations of U.S. works. Contrary to the oft-repeated charges that U.S. firms translate and publish only dissidents' works, only 16 translations were of this category, compared to 51 translations of fictional works by officially sanctioned Soviet authors.

ACCESS

Although some East European countries' statistical claims initially may appear to be rather impressive, and their arguments should be carefully considered, the Final Act does not call for numerical reciprocity in the exchange of information. It provides for the "freer and wider dissemination of information of all kinds" and the "gradual increase in number and diversity of works by authors from the other participating states." These provisions support the idea that what is at stake is the greater availability of a variety of information—the freer access by citizens to information of all kinds—and consequently, that people, not governments, should make the choice as to what they read. Accepting that the increase in numbers of works translated and imported is a complex affair—particularly in the West's free market system, where individuals' tastes govern demand and thus supply, and where the government has limited influence in the private sector—the Final Act calls for only "the gradual increase in numbers and diversity of works."

Soviet sensitivity on this point is clearly apparent in the many justifications given for the continuation of selective censorship. The most commonly heard argument stresses that the Soviet Union has the right, even the duty, to protect itself from "the so-called bourgeois culture which advertises war, violence, racism and man-hunting, and which is geared to shake socialism and meddle in the domestic affairs of the socialist countries."³⁰ The Soviets accuse the West of wanting to use

³⁰ Tass, May 6, 1977.

the free flow of information to bring violence and pornography into their country and emphasize that the exchange of books and printed matter should not "have the purpose of imposing ideas and cultural standards alien to peoples and contradicting their customs and traditions."³¹

Given these basic premises, the Soviets and East European countries have a spotty record in providing their citizens access to much Western literature. Notwithstanding the Helsinki commitments to "improve the opportunities for reading and borrowing [Western] publications in large public libraries," much Western literature is still contained in closed stacks, to which special passes must be obtained. Soviet citizens are unable to order Western books and those books to which they have access are often translated with a view to the negative aspects of Western culture they present.

These restrictions are in direct opposition to the situation in the West, where fewer translations of Eastern books may be printed, but where citizens are free to check any materials out of libraries and to order any book they may desire.

There is yet another imbalance in East-West book exchange, one that not only imposes barriers to increased trade in this area, but severely limits the freedom of access to Western works in the Soviet Union. Books published in the U.S.S.R. are readily available in the United States. For example, the Four Continents Book Store in New York and Kamkin's Book Store in the suburbs of Washington, D.C. (which recently opened a branch on the West Coast) are exclusively devoted to the sale of Soviet-produced books. Both stores also maintain large mail-order businesses.

In spite of the Helsinki provision calling for the "increase in the number of sales outlets where books by authors from the other participating states, imported in the original . . ." are for sale, books published in the West are not sold in the Soviet Union and some East European countries. Not only are these books not on sale at present, but U.S. publishers' proposals to establish an American or CSCE bookstore in Moscow have been repeatedly rebuffed. Thus, the United States may lag somewhat behind the U.S.S.R. in the numbers of works translated, but an open market for Soviet books in the original language and in English exists without interference.

COOPERATION

In a positive development, cooperation between U.S. publishers and their counterparts in Eastern Europe has been very active in the post-CSCE period. Contacts and cooperative efforts have particularly grown between the Soviet Union and the Association of American Publishers (AAP), which represents U.S. publishing firms. Activities in this sphere have included the exchange of several delegations of publishing officials, and the discussion of a protocol to delineate areas of future cooperation. The protocol would cover such areas as the exchange of translator trainees and increased exhibitions.

In addition, several U.S. publishers, including Doubleday, Harper and Row, Simon and Schuster, and Little-Brown, are considering pub-

³¹ Tass, Dec. 16, 1976.

lications of Soviet authors. In the first such endeavors of this type, Macmillan Publishers has announced plans to print 10 works of Soviet science fiction and Times-Mirror has signed an agreement to issue English-language editions of coproductions of Soviet art and medical publications. The Franklin Book Programs has undertaken the translation and publication of the "Bolshaya sovetskaya entsiklopedio" (Great Soviet Encyclopedia) and, under contract with the National Science Foundation, has also begun translating Soviet scientific works. New areas of activity being considered by Franklin include the translation of other foreign works and the promotion of international book exchanges through conferences, exhibits and newsletters. Based on the December 1976 visit of a Soviet delegation of translators and literary experts to the United States last fall, the U.S.S.R. Union of Writers has characterized recent exchanges with the United States as "very fruitful."³²

U.S. Government agencies seeking to cooperate with the Soviet Union on literary and technical translation projects, however, have had only mixed success. The National Technical Information Service of the Department of Commerce did conclude an agreement in 1977 providing for the cover-to-cover translation of six Soviet periodicals—sociopolitical as well as technological—into English. It took the U.S. Air Force, on the other hand, 19 months just to negotiate Soviet approval for an English translation of Marshall Andrei Grechko's book, "The Armed Forces of the Soviet State." Moreover, the Soviets have denied Air Force requests to translate either "The Sea Power of the State," by Adm. Sergei Gorshkov, or a book called "Tactics and Combat Examples: The Regiment." And there has been no Soviet response—after a year of waiting—to Air Force applications for permission to translate the eight-volume "Soviet Military Encyclopedia" or three other books.

Although cooperation between U.S. publishers and the other Warsaw Pact countries has been fairly limited up to now, the AAP has also begun exploring different possibilities for increased cooperation with these countries. With the establishment of a Trade with Eastern Europe Committee (which will include Yugoslavia in its scope of activities), the AAP has undertaken studies of the markets in several Warsaw Pact countries and in Yugoslavia and has made initial contact with Polish officials interested in CSCE activities in their country.

BOOK FAIRS

United States and Warsaw Pact publishers have also participated in a number of international book exhibitions in the post-CSCE period. The Montreal Book Fair hosted not only representatives of Western publishing concerns, but of the Soviet and Polish rights agencies, VAAP and Ars Polona, as well. U.S. publishers attended the Warsaw Book Fair at the end of May and the AAP reports that the Poles have been receptive to U.S. interest in sponsoring a publishing seminar at the next fair.

Sixteen U.S. publishers have evinced an interest in attending the first Moscow International Book Fair to include Western firms, which

³² "Second Semiannual Report," p. 37.

is scheduled for September. The theme of the fair: "Books in Service of Peace and Progress" and Soviet insistence that only books corresponding to this theme will be accepted, however, have raised some concern among U.S. participants. According to Yu. Torsuyev, General Director of the fair, any books will be permitted except those that "contradict Soviet law; advocate war, racial and national discrimination; and insult the national dignity of the other participants." U.S. firms, disturbed at the prospect of having their materials censored, are also unclear as to what this censorship will entail. According to Robert Bernstein, "We have been told that our exhibits would be subject to Soviet laws, but we have been unable to discover what these laws are."³³ Nonetheless, the AAP recognizes that the primary purpose of the fair will be to sell books, and that U.S. participation will give publishers the opportunity to become better acquainted with what both sides have to offer.

IMPLEMENTATION PROBLEMS

In spite of these positive steps, there still remain several obstacles to establishing a free flow of books between East and West. Probably the greatest problem in the view of Western publishers, is the lack of direct communication they enjoy with the authors of works under negotiation. According to Mr. Bernstein, the official Soviet rights agency, VAAP, has "intimated that Soviet authors negotiating contracts directly with foreign publishers might be subject to criminal sanctions in the U.S.S.R."³⁴ This position would seem to contradict Helsinki commitments to "facilitate international contacts and communications between authors and publishing houses." Soviet resistance to such contacts is further corroborated by the fact that telephone and postal communications between U.S. publishers and unofficial Soviet authors are usually blocked.

The denial of a Soviet entry visa to Suzanne Massie, wife of "Nicholas and Alexandra" author Robert Massie, is another example of the arbitrariness publishers encounter in dealing with the U.S.S.R. Mrs. Massie, who had been signed to write an art book on a major Soviet collection, was denied a visa in 1976, 2 days before her departure to Leningrad, in spite of the fact that VAAP had sanctioned the trip and arranged her appointments. On the other hand, the National Geographic Society reports that Soviet cooperation in the preparation of their publication, "Journey Across Russia: The Soviet Union Today," was excellent and included surprisingly few attempts at interference or censorship, although U.S.S.R. officials only consented to cooperate in the publication on condition that they could review the book's layout, photographs, and text. They refused, for example, to let the National Geographic print a photograph of an occupant of a Soviet insane asylum.

On the whole, activity in this sphere of CSCE has been marked by selective cooperation on the part of the Soviet and the East European governments. Warsaw Pact nations have made it clear they intend to continue their rigid control over the flow of books into their countries. Political motivations still govern which Western books will be

³³ CSCE Hearings, Basket III, vol. III, p. 152.

³⁴ *Ibid.*

translated, which books Western publishers will be permitted to display at fairs, and which Eastern authors will be permitted contacts with foreign publishers. Soviet and some other Eastern governments continue to resist Western efforts to increase the flow of Western publications through outlets devoted to their sale in the original. Not only do these governments still insist on the control of information going into their countries, but they continue to restrict those authors who do not mouth the official line.

Moscow philosopher Aleksandr Zinoviev, whose scholarly works had been published outside the U.S.S.R. in English and German, was ousted from his chair as professor of logic at Moscow State University and dismissed from the Academy of Sciences' Institute of Philosophy, after the Russian publication in Switzerland in 1976 of his biting satire on Soviet life, "Ziyayushchiye vysoty" (The Yawning Heights). Also critic Lev Kopolev was expelled from the Soviet Writers Union for publishing abroad in 1976. East German authors Reiner Kunze and Thomas Brasch were made reluctant 1977 emigres to the West because of their nonconformity.

CONCLUSION

The record of compliance with the information provisions of the Helsinki Final Act is a record scattered with improvement in some areas, regression in others, and no movement in still others. In general, the patterns of conduct of the Warsaw Pact governments with respect to the free flow of information are little changed in substance. While clear-cut improvements have been effected in some areas—the issuance of multiple entry and exit visas for journalists, for example—performance in other areas indicates a general unwillingness to allow a true free flow of ideas.

Contrary to the specific CSCE provision of facilitating the flow of information of all kinds, the Warsaw Pact governments refuse to ease their control over the ideas to which their populations have access. In justification, the Warsaw Pact states assert their right to defend their peoples from pornography and incitements to violence and racial hatred, but few in the West remember the last time Newsweek carried an erotic centerfold or an ad for the Ku Klux Klan.

Not only do these governments insist on controlling the information reaching their citizens, many of them sometimes appear to attempt to control information reaching citizens of the West. Thus, Peter Osnos is warned that his articles are dangerously negative, Robert Toth is interrogated by the KGB, George Krinsky is expelled, and Paul Hoffman pulled off a train, his notes confiscated.

The East European countries assert that their citizenry has more knowledge of the West than Westerners have of the East, that this knowledge is the result of the significantly higher numbers of books and films imported from the West each year. Lists of statistics are quoted to buttress this argument and claims are made that this statistical superiority signals superiority in the implementation of CSCE information provisions. Closer inspection of the books and films translated and imported shows, however, a pervasive selectivity in content.

Either totally innocuous or stressing the negative aspects of Western life, these books and films often seem to be selected primarily for their propaganda value. Such selectivity is not the conduct called for in the Helsinki accord. The Final Act encourages the "freer and wider dissemination of information of all kinds"; not the dissemination of only limited information designed to fulfill certain propaganda goals. Unquestionably, U.S. citizens would do well to become better acquainted with the cultures and ways of life of Eastern Europe and the Soviet Union, but interest in this area cannot be legislated. Western citizens are free to choose what they read and see. The same opportunities should be, but are not, open to citizens of the Warsaw bloc.

CHAPTER VI—CULTURAL AND EDUCATIONAL EXCHANGE

FINDINGS AND RECOMMENDATIONS

Basket III calls upon the participating states to encourage and expand the freer flow of people and ideas in the areas of culture and education. The Commission finds that in the 2 years since the Final Act was signed, the Basket III areas in which the most progress has occurred have been the sections on cultural and, particularly, educational exchange. However, two problems have hampered this progress. In the United States, fuller implementation could have been achieved by increased funding for the promotion and expansion of the exchanges. In the East, easing restrictions on access to scholarly materials and on travel would have been a major step toward enhancing cooperation and exchanges in these fields. Among the Warsaw Pact nations, the Commission has found that the U.S.S.R. had the worst record; East European performance after Helsinki has been considerably better than that of the Soviet Union. Yugoslavia provides Americans the best opportunity to conduct their work.

There is little evidence that CSCE has had the same stimulative effect on cultural exchange as it has had in the field of education. As far as American implementation is concerned, however, the Commission finds that American audiences welcome performing artists and cultural exhibits from the Communist nations with continued interest.

OVERALL RECOMMENDATION

In cultural and educational exchange there is much room for progress in both quantity and quality. Overall, the Commission recommends that efforts to achieve this progress give primary recognition to the role the individual plays in the exchanges. Although governments presently negotiate and oversee most East-West exchanges, culture and education most properly belong to the individual artist and scholar. Future steps to implement the Final Act should gradually reduce the position that governments and government officials now occupy in establishing and conducting the exchanges. Actual participants, not bureaucrats, should be encouraged to initiate and carry out their own programs.

The United States and the U.S.S.R. should take the lead in promoting simpler, more flexible and more direct cultural and educational activities in order to develop more fully the Final Act objectives of "direct contacts and communications" among people and of "access by all" to the cultural and educational resources of the participating states.

SPECIFIC RECOMMENDATIONS

As specific steps which the United States can take to promote and encourage the exchanges, the Commission recommends that:

- the U.S. Government provide expanded and continuing financial support to the State Department's Bureau of Educational and Cultural Affairs with the aim of taking fuller advantage of the Final Act's provisions on cultural and educational exchange;
- in order to promote the Final Act's provision to encourage the study of foreign languages and civilizations, a panel which, at the suggestion of this Commission, the President has agreed to appoint, promptly begin its work to recommend specific measures on how to strengthen and improve language and area studies in the United States;
- an "exchange office" be established in connection with the U.S. Embassy in Moscow. This office would house and service representatives of governmental and nongovernmental exchanges. Assisting exchange participants as well as qualified individual artists and scholars, the office would aid the effective implementation and promotion of exchange activities by helping to overcome the various obstacles U.S. exchanges in the U.S.S.R. now encounter;
- American businesses involved in East-West trade expand their efforts to provide exchange funding to nongovernmental organizations as one means of promoting better relations among the Western and Eastern signatory states;
- the U.S. Government continue to take all appropriate action to encourage state and local institutions as well as nongovernmental organizations to pursue exchange activities with the East as one effective way to take advantage of the opportunities contained in the Final Act.

FINAL ACT PROVISIONS

The Final Act's provisions on cultural and educational relations between participating states call for increasing the opportunities for expanded personal and institutional contacts by artists, students, and scholars with foreign colleagues and with the institutions they represent, and for access to pertinent information and materials. Principles VII and VIII of the Basket I decalog introduce the following key language:

The participating states . . . will promote and encourage the effective exercise of . . . cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development . . . They will equally endeavor . . . to improve . . . the benefits resulting from increased mutual knowledge and from progress and achievement in cultural and humanitarian fields . . .

Sections 3 and 4 of Basket III outline the basic goals contained in the Final Act in the areas of culture and education:

The participating states . . . disposed in this spirit to increase substantially their cultural exchanges . . . jointly set themselves . . . to promote access by

all to respective cultural achievements [and] to develop contacts and cooperation among persons active in the field of culture.

The participating states [are] prepared to facilitate . . . the further development of exchanges of knowledge and experience as well as of contacts . . . among persons engaged in education and science.

INTERPRETATION

Basket III calls for the signatory states further to promote and develop "direct contacts and communications" between individuals and institutions (both state and private), and to grant "access by all" to the cultural and educational resources of the other participating states. The success or failure of exchange activities hinges on the degree to which these two provisions are implemented. Consequently, the Commission has focused its monitoring efforts on the actions which signatory governments have taken or have failed to take during the last 2 years to encourage and facilitate the further realization of these principles.

The cultural and educational sections of the Final Act contain qualifying language which gives each state flexibility in CSCE implementation. This language reflects the compromises made during long and difficult negotiations carried on under the rule of consensus. For example, the Final Act specifically calls for the extension of relations through new bilateral agreements "where they are necessary" to set guidelines for cooperation "on the basis of special agreements." In addition, the provisions of existing bilateral agreements are to be given the "fullest possible use." "Flexibility" is the keynote for any future cultural and educational agreements to be reached.

The language contained in the Final Act takes into consideration the fact that the national interest as well as the competence of participating states will influence the pace and degree to which particular CSCE provisions are implemented. Each state is protected from making any commitments—moral, ideological, financial—which it cannot meet. Such qualifying language has enabled each participating state to determine the nature of contacts and communications, as well as how "direct" they should be. In the area of scholarly research, "access by all" is also qualified, with signatories controlling resources a person may have access to and determining what resources are "relevant." Access is granted to "open" archives and is subject to the existing rules for their utilization.

Although Basket III calls for the facilitation of "travel within the receiving state for the purpose of study or research," permission to travel can be denied if the state determines that the resources at the place of destination are not relevant or are closed. Quite often the materials to which scholars seek access are closed to all ordinary citizens, not just foreigners. Such situations make access a serious problem for native scholars as well. In fact, wearing the hat of a participant in an official exchange agreement can give Western scholars in Eastern countries better treatment and fuller access to resources than their resident Eastern colleagues.

The Commission shares the hope of the American cultural and academic communities that in human and professional terms, the CSCE process will gradually give full life to the ultimate objective embodied in the Final Act's provisions on culture and education: namely, that writers, painters, poets, dancers, students, researchers, lecturers, as well as others active in the arts and sciences, should be able to interact freely with their foreign counterparts and have full and unimpeded access to relevant materials, institutions, and individuals.

IMPLEMENTATION

HISTORY OF IMPLEMENTATION

American exchanges with the U.S.S.R. and Eastern Europe began with a 1958 agreement between the United States and Soviet Union. Since that time, the United States has signed, negotiated, or proposed the development of bilateral intergovernmental exchange agreements or programs with the rest of the Warsaw Pact, excluding Poland. Our exchange activities with the West European countries, and to a lesser extent with Yugoslavia and Poland, are sufficiently open, free, and normal as to make intergovernmental agreements unnecessary.

West-West exchanges

The cultural and educational relations between the countries of Western Europe and the United States represent the ideal standard of conduct as envisioned by the Final Act.

Exchange opportunities between the United States and West European countries are quite extensive. Close to 400 study-abroad programs exist, either for the academic year or for the summer, covering a wide diversity of regions. American students have a choice of studying in 61 cities in England, 41 in France, 34 in the Federal Republic of Germany, 19 in Spain, 13 in Switzerland, 11 in Italy, as well as 5 in Sweden or Scotland, 7 in the Netherlands, and 4 in Denmark.¹ Even less ambitious students can profit from the opportunity of studying in a foreign country while attending an English-speaking institution. Moreover, according to the Institute of International Education (IIE), during the academic year 1975-76 approximately 10,506 West European students studied in American universities.

During the same period, the IIE has found that only about 775 college students from *all* of Eastern Europe and the Soviet Union studied in educational institutions in the United States. Of the 775, 38 were from the U.S.S.R. The largest group from any single East European country—267 from Yugoslavia—contrasts with the largest group from the West European nations—2,160 from the United Kingdom.

¹Gail Cohen, ed., "U.S. College Sponsored Programs Abroad" (New York: Institute of International Education, 1977), pp. 18-39.

*Foreign nonimmigrant students in the United States by home country
Academic year, 1975-76*

	<i>No.</i>		<i>No.</i>
Eastern Europe:		Western Europe—Continued	
Yugoslavia -----	267	France -----	1, 254
Poland -----	207	Netherlands -----	601
German Democratic Republic -----	105	Italy -----	523
Romania -----	65	Spain -----	521
U.S.S.R. -----	38	Norway -----	480
Hungary -----	36	Sweden -----	410
Czechoslovakia -----	35	Switzerland -----	355
Other -----	22	Ireland -----	316
		Belgium -----	280
		Denmark -----	234
Total, Eastern Europe--	775	Finland -----	199
		Portugal -----	164
Western Europe:		Austria -----	149
United Kingdom-----	2, 160	Iceland -----	90
Greece -----	1, 498	Other -----	43
Germany, Federal Republic of -----	1, 279	Total, Western Europe--	10, 508

While the exact figures are difficult to determine, this chart is the Institute of International Education's approximation of the number of East and West European college students studying in the United States during the academic year 1975-76, while maintaining their European citizenships. The number represents an actual count of non-immigrant foreign students whose country of origin is known.² State Department officials believe that the East European figures are probably too high, with the exception of the U.S.S.R., which is too low.

American exchanges with the U.S.S.R. and Eastern Europe

The Basket III areas in which the most progress has occurred with respect to Eastern implementation have been the sections on cultural and educational exchange. Two factors have stimulated this progress. First, the Final Act enhanced the possibilities for the continued expansion and improvement of the exchanges by giving them a political stamp of approval. Second, expansion and progress in cultural and educational exchange have been easier to achieve than in other, more sensitive areas of Basket III. The exchanges are essentially apolitical, and are more purely founded in the principles of creativity and scholarship.

The expansion and improvement which has taken place since Helsinki probably would have, with time, occurred anyway. Sufficient support for the exchanges existed in both the East and West before the Final Act was signed to ensure that they would continue to grow both quantitatively and qualitatively. The existence of the Final Act, however, has provided a significant incentive for the Soviets and East Europeans to accelerate cooperation. Anxious to establish a good implementation record, the Warsaw Pact's stimulated interest in exchanges enabled the United States to reach agreement on programs in the last 2 years which might normally have taken longer. This is especially true in the extension of cultural and educational relations, both through official and nongovernmental arrangements.

² Institute of International Education, "Open Doors." (New York: Institute of International Education, 1976.)

IMPLEMENTATION ACTIVITIES

Notable progress has been made since Helsinki in the expansion of intergovernmental exchange activities. With the conclusion in October 1976, of a new 3-year program of exchanges, bilateral academic exchanges with the U.S.S.R. reached their highest levels since 1958. The official text of the program document made reference to the provisions of the Final Act.

Important expansion has occurred since 1975 with those East European countries with whom no official exchange agreements existed before Helsinki. By mid-1977 the United States had completed negotiations of its first general bilateral agreements on exchanges and cooperation in education, culture, science, and technology with Bulgaria, Czechoslovakia, and Hungary. The Hungarian agreement was signed in April 1977, and the Bulgarian agreement was concluded in June 1977. A program document was concluded in January 1977, with Romania on activities for 1977-78 under an existing general agreement. At the request of these Eastern governments, all of the above documents made specific reference to the provisions of the CSCE Final Act.

The Helsinki Final Act, according to State Department officials, was a positive factor in the establishment of cultural relations with the German Democratic Republic (GDR). In 1976 the United States proposed that a bilateral cultural program of reciprocal exchanges be developed, to which the initial GDR response has been positive. The GDR in return expressed a desire to discuss a range of areas for cooperation, a proposal the United States responded to positively.³ In addition, the International Research and Exchanges Board (IREX) in May 1977, expanded what had been the first American educational exchange agreement with the East Germans. At East German urging this new agreement made reference to the Final Act.

Unfortunately, with all but one member of the Warsaw Pact, official exchange agreements have been the only way the United States has been able to develop cultural and educational relations with the East. The Commission recognizes that with the closed societies of the U.S.S.R. and much of Eastern Europe, negotiated, and therefore restrictive, government-to-government agreements may presently be the only way to have any artistic or scholarly exchanges between East and West. In public testimony, Assistant Secretary of State for Educational and Cultural Affairs, Joseph Duffey, stated that "I do not think that we see a way to get around them."⁴

The West European example shows that cultural and educational exchange works best when it is not regulated by official governmental treaties. Although governments now negotiate and oversee most East-West exchanges, culture and education most properly belong to the individual artist and scholar. Future steps to implement the Final Act should gradually minimize the position that governments and government bureaucrats now occupy in establishing and conducting the exchanges. The U.S. Government can aid this process by continuing to take all appropriate action to encourage the State, local, and private

³ "Second Semiannual Report," p. 69.

⁴ CSCE Hearings, Basket III, vol. III, p. 28.

sectors to pursue direct exchange activities with the East as the most effective way to open up and expand cultural and educational relations.

It has been the state, local, and private sectors, particularly the American university, that have benefited the most from the Final Act's provisions on exchanges. The Soviet Union was reluctant to establish direct arrangements with State or private American universities prior to CSCE. An October 1976 State University of New York-Moscow State University agreement signaled a change in Soviet policy. CSCE undoubtedly was a major consideration which produced that change.

Since Helsinki, four direct agreements have been signed with Moscow's Pushkin Institute of the Russian Language (by Bryn Mawr College, Middlebury College, Ohio State University, and the American Council for Teachers of Russian). In addition to SUNY, the Midwest Consortium for International Affairs (which represents the Universities of Illinois, Wisconsin, Minnesota, as well as Indiana, Purdue, Ohio State, and Michigan State) concluded an agreement with Moscow State University.

Among nongovernmental organizations, the National 4-H Council has established a new exchange program for young agricultural specialists with the U.S.S.R., Hungary, and Poland, and the YMCA agreed with the U.S.S.R. State Committee on Youth Organizations to initiate direct exchanges of youth leaders.⁵ Implementation of a 1975 agreement between the American Council of Learned Societies and the Soviet Academy of Sciences commenced. On August 30-31, 1975, this agreement produced a Soviet-American colloquium at Stanford University which compared American slavery and Russian serfdom. Other activities included a joint legal conference on problems of federal-local relations, held in Racine, Wis., in November 1976. The Kennan Institute for Advanced Russian Studies, together with the Natitonal Archives and Department of State, signed in October 1976, an agreement with the Soviet Main Archival Administration, Ministry of Foreign Affairs, and Academy of Sciences. Under the agreement the two sides agreed to undertake in 1976-78 a joint publication of a collection of documents on the first period in the history of Russian-American relations (1765-1815).

As had been the case before CSCE, private arrangements with East European countries continued well above the level which even now exists with the U.S.S.R. Notable activities since Helsinki, included the establishment of educational exchange programs by the University of Kansas and Kent State University with Warsaw University. This brings the number of United States-Polish agreements of this type to over 25.⁶

PROBLEMS IN IMPLEMENTATION

American

The Commission has found that the U.S. ability to implement more fully the cultural and educational sections of Basket III has been hampered to some extent by insufficient funding. In the years 1958-75, the U.S. Government, private foundations, and universities together spent approximately \$50 million to support academic exchange pro-

⁵ *Ibid.*, p. 13.

⁶ "Second Semiannual Report," p. 84.

grams with the U.S.S.R. and Eastern Europe. This is only a fraction of the annual budget of a major State university in the 1970's.⁷ Since 1975 the funds available have increased only slightly, not keeping pace with the demands of inflation or with the opportunities which have been available for Helsinki implementation.

Indeed, the United States has sometimes been unable to meet a Soviet willingness to expand the exchanges. Furthermore, financial restraints were one of the factors that contributed to a cutback on the 1975-76 East European program which is run by the International Research and Exchanges Board (IREX). The agreement with Czechoslovakia had previously enabled Czechoslovaks to spend an unofficial total of 100 months in the United States, compared to 50-plus for Americans in Czechoslovakia. Both sides were cut to 50. The Hungarian and Polish quotas, formerly 70 months both ways, were cut to 55 and 60 months both ways, respectively. Romania was reduced to 50 months both ways from a previous level of 80 for the Americans and 100 for the Romanians. The Yugoslav quota was reduced from 80 months both ways to 64 both ways in the first year of a new 3-year agreement.⁸

In this sense the United States has not had the adequate resources to implement the spirit, and with respect to the cutbacks, the letter ("The participating states [are] prepared to facilitate . . . the further development of exchanges of knowledge and experience as well as of contacts. . .") of the Helsinki Final Act.

Nature of the funding problem

Private foundations (primarily the Ford Foundation) and the U.S. Government have been the two most important sources of financial support for the educational exchanges since their inception in the late fifties. The Ford Foundation was the major contributor, giving to IREX and its predecessor, the Inter-University Committee on Travel Grants, some \$7 million in the period 1958-74 for exchange activities between the United States and the Soviet Union and Eastern Europe; the State Department contributed somewhat less than \$5 million.⁹

Across-the-board retrenchments in the Ford Foundation expenditures resulted in a nearly 50 percent decrease for the 1976-77 program year in the funds made available to IREX, the major administrator of the American educational exchanges with the Soviet Union.¹⁰ IREX's annual budget for the U.S.S.R. and Eastern Europe is now approximately \$2.5 million. Furthermore, the Ford administration withheld \$5 million from the fiscal year 1976 congressional appropriation to the State Department's Bureau of Educational and Cultural Affairs (CU). This office administers our official bilateral exchanges with the East, and also provides financial aid to nongovernmental organizations for exchange activities. For fiscal year 1978, the Congress appropriated \$6.5 million of the \$11.5 million funding increase which CU requested for its worldwide activities.

In the science exchanges, the National Academy of Sciences reduced the number of participants in its exchange with the U.S.S.R. from a

⁷ Robert F. Byrnes, "Soviet-American Academic Exchanges, 1958-75." (Bloomington: Indiana University Press, 1976.)

⁸ IREX, "1975-76 Annual Report," p. 12.

⁹ Byrnes, *op. cit.*, p. 122.

¹⁰ The figure is based on CSCE staff interviews with IREX.

peak of 80 in 1974-75, to a level of 58 in 1977. This was caused in part by budget reductions in the National Science Foundation, which funds NAS exchange. (The NAS exchange with the U.S.S.R. and Eastern Europe currently operates on an annual budget of around \$1.5 million.)

Private universities have also suffered from the shortage of funds for exchanges. For those interested in establishing exchanges with the East, money can become an insurmountable obstacle. The rector of Moscow State University toured the United States in 1975 at the invitation of the State Department to explore the possibilities for direct exchange agreements with American universities. At the end of his visit he summed up his trip:

I am prepared to increase the number of exchanges, perhaps as much as tenfold, but your colleges do not have the resources, and your government is not doing anything about it.¹¹

An IREX poll of 100 American universities found that less than a dozen expressed an interest in establishing direct exchange arrangements with the U.S.S.R.¹² Insufficient funding is not the only reason, or even the main reason that our universities are not interested in exchanges with the East. Fred Stárr, secretary of the Kennan Institute for Advanced Russian Studies, told the CSCE Commission staff in an interview, that—

for most American universities, such highly formalized contacts are exceptional. Our universities prefer to deal with foreign students and scholars on an individual basis, considering each applicant on his merits. The types of agreement which the Soviets prefer frequently deny to American institutions the normal process of selection. What is needed are modes of exchange which are as simple, direct, flexible, and non-bureaucratic as possible.

The question of funding has been addressed by many witnesses in Commission hearings on cultural and educational exchange. Two major conclusions emerged. First, there is an interest in both the East and West for expanded exchanges, and this expansion will require new funding. Second, qualitative improvement of existing exchanges should be a precondition for their quantitative expansion.

The CSCE Commission shares the view that qualitative improvement should precede any numerical expansion of cultural and educational exchange. The Final Act calls upon the participating states to "improve" as well as "expand" the exchanges. However, increased funding would not only insure the continuation of existing programs at their present levels, but would also make it possible for the United States to examine the establishment of new exchanges in areas where quality has been higher, such as in the fields of business and agriculture.

Taking into consideration rising inflation and increased personnel and administration costs, the effects of even small financial cutbacks become serious obstacles to maintaining the exchanges. Conversely, small additions may open the way to worthwhile expansion. The burden for providing additional funds rests primarily with the American government, but private sector contributions—already a major

¹¹ CSCE Hearings, Basket III, vol. III, p. 62.

¹² Allen Kassof in a Discussion Paper presented to a Conference on American-Soviet Exchanges, sponsored by the State Department at Airlie House, Va., June 16-18, 1976.

source of funding for educational exchange—should also be solicited energetically from enterprises active in East-West commercial and other exchange.

Foreign language and area studies in the United States

The Commission believes that the United States should direct more time and money to implement more fully another CSCE provision: the encouragement of foreign language and area studies. The Final Act calls upon the participating states "to encourage the study of foreign languages and civilizations as an important means of expanding communication among peoples for their better acquaintance with the culture of each country. . . ." At the initiative of CSCE Commissioner Paul Simon, the Commission has looked into the question of U.S. implementation of this section of the Final Act and has found that the pre-1975 trend toward reduced foreign language study in the United States has continued. The following examples will illustrate this point:

- Foreign language enrollments dropped 30 percent between 1968 and 1974. They appear to be declining further.
- Ninety percent of our colleges and universities do not have a foreign language requirement.
- In 1974 only 24 percent of American high school students were studying a foreign language. Fewer are doing so now.
- Only 5 percent of those enrolled in teacher education programs are receiving any foreign area instruction.
- Only 17 percent of American foreign language students taught wholly in this country can speak, read, or write that language easily.
- The International Education Act has never been funded.

The Commission has also found that there is a link between the expansion of educational exchanges and the promotion of foreign area studies in the United States. A report evaluating the IREX program estimated that the mere existence of the possibility to spend extended periods of time studying in the Soviet Union or Eastern Europe has increased the number of scholars in these fields by about 20 percent.¹³

The decrease in foreign language study has affected all the major European languages (the five most commonly taught in the United States—in order of decreasing enrollment—are Spanish, French, German, Italian, and Russian).¹⁴ The situation with Russian language study, a popular topic in the Soviet press, is in fact not as unstable as with the others. As of 1974, "decreases in French and German enrollments were more severe than those in Russian, and Italian and Spanish enrollments managed to hold steady."¹⁵ Furthermore, ample opportunity exists for any American student to study Russian if he or she desires. Approximately 350 American colleges and universities offer Russian and Slavic programs.¹⁶ In 1976-77, the U.S. Office of Educa-

¹³ Charles Kadushin, et al., "IREX: An Evaluation of the Experiences of Exchange Participants 1969-70 Through 1974-75," unpublished draft (1977) p. 9.

¹⁴ Richard Brod, "Foreign Language Enrollments in U.S. Colleges—Fall 1974," *ADFL Journal*, VII, No. 2 (November 1975), p. 41.

¹⁵ *Ibid.*, pp. 37-38.

¹⁶ "Russian Language Journal," XXX, No. 107 (1976), pp. 131-181.

tion designated 15 universities as National Defense Education Act centers for Soviet and East European studies.¹⁷ In the post-Helsinki period, the number of National Defense Foreign Language fellowships in the Slavic languages rose from a 1975 level of 126 to 143 for the 1976-77 academic year.¹⁸

With the hope of reversing the continued downward trend in the study of foreign language and area studies in the United States, the CSCE Commission has recommended to the President that he appoint a commission to make suggestions to the President and the Congress on how to strengthen and improve language and area studies in the United States. In a letter dated June 29, 1977, President Carter called the suggestion "most appropriate," and plans for establishing this Commission are now in the works.

Eastern Europe

Although the Soviet Union has made significant contributions to the expansion of exchanges since Helsinki, its concept of the "freer flow of people and ideas" is still characterized, as it was before Helsinki, by the imposition of obstacles to the access and travel upon which "freer flow" depends. The Soviets are faced with the dilemma of wanting expanded exchanges and at the same time of trying to minimize the potentially ideologically unnerving effects of foreigners wandering about the corridors of Soviet universities and dormitories. Politburo Member Vladimir V. Shcherbitsky described the Soviet fears in a recent speech at an ideological conference "On the Socialist Way of Life and Questions of Ideological Work":

In our consistent work we take into account that imperialists are trying to make active use of the growing exchanges of information among socialist and capitalist countries and of the growing contacts among people for an ideological infiltration, counting on persons with unstable ideological principles, primarily young people.¹⁹

Out of this Soviet view come the problems which impede the Final Act's provisions for the promotion and development of "direct contacts and communications" and "access by all."

Testimony before the CSCE Commission has shown that it is wrong to generalize about Warsaw Pact performance in these qualitative aspects of Basket III implementation. It is easier to deal with the countries of Eastern Europe, for they are smaller and the sense of confrontation is much diminished. The East European countries have progressed further than the U.S.S.R. in ameliorating the conditions under which the educational exchanges operate. This is especially true in Poland and Hungary. Traditionally more advanced than the rest of the East are the Yugoslavs, both in terms of number and quality of exchanges. One IREX administrator stated that "this is the country where our people are the freest and have the best opportunity to get their work done."

Access

The Final Act calls upon the signatory states to grant scholars "the opportunity to use relevant scholarly and open archival materials" and

¹⁷ CSCE staff interview with Office of Education official.

¹⁸ *Ibid.*

¹⁹ Kiev domestic radio service, May 18, 1977, as reported in Foreign Broadcast Information Service, "Daily Report, Soviet Union" (May 19, 1977) p. R1.

to facilitate "their travel within the receiving state for the purpose of study or research. . . ." According to testimony and staff interviews, access to archival materials in the U.S.S.R. has been impeded since Helsinki in the following ways:

- outright denial of access to a specific archive;
- denial of specific materials within an archive to which a scholar has been granted access;
- denial of access to the "finding aids," or catalogues which describe the actual contents of an archive to which a scholar has access and in which he is working;
- problems in obtaining access to archival materials which the scholar learns about only after his arrival in the U.S.S.R. and which he therefore was unable to request prior to arrival; and
- refusal to place a scholar in the university in which it would be most useful for him to work.

The following are some examples of the access problems that American scholars have faced in the Soviet Union since the Final Act was signed:

- In an interview the Commission learned that in 1976-77, one graduate student, in the U.S.S.R. on an IREX grant, was denied access to archives concerning 17th and 18th century Russian-Kalmyk (a Mongol ethnic group professing Buddhism) relations.
- In May 1977, one IREX fellow was in Soviet Central Asia doing research on transformation and changes in the Uzbek language. It took him 7 months to get into the archive of the Academy of Sciences in Uzbekistan. He was allowed in for 1 day. He was assured that he could come back the next day. When he came back, he was not let in. He had left his notes there and officials would not give them back to him on the grounds that they pertained to topics not officially included in his research.²⁰
- The newspaper collection of the Lenin Library in Moscow was moved to a new repository located in the city of Khimki, just outside of Moscow. This area is closed to foreigners, although the repository is technically open. A great many of the American scholars who go to the U.S.S.R. require access to the periodical press, and this situation in Moscow has caused particular hardship.²¹
- One American mathematician wanted to be placed in Moscow State University, whose mathematics faculty was working on the topic that interested him. The Soviets accepted the scholar, but wanted to place him at Leningrad State University. The American found this unacceptable, and decided not to go to the U.S.S.R. at all.²²

Regarding the last example, one should note that 80 percent of Soviet exchange participants are not placed at the universities in the United States which they requested, while most Americans do receive their placement requests. The high rejection rate for Soviets is caused

²⁰ CSCE Hearings, Basket III, vol. III, p. 90.

²¹ Letter from IREX to Commission, Mar. 10, 1977.

²² CSCE staff interview with IREX.

by the fact that most Russians ask to be placed in one or two leading institutions. Consequently, the load must be shared by sending those whose requests cannot be met to other universities whose facilities and faculty can nonetheless satisfy the Soviet researcher's needs.

Travel

The ability to travel within the U.S.S.R. for purposes of research continues to be a problem for American exchange participants. One administrator reported to the Commission that in the U.S.S.R., many American scholars experience extremely frustrating and wasteful bureaucratic delays in making arrangements to spend time in other cities on official research visits. This is especially acute for scholars based in Leningrad who wish to travel for extended periods of time to Moscow. For the most part, however, Americans eventually succeed in obtaining permission to travel, though the trips are considerably delayed and access to local archives may be impeded upon arrival.

Soviet scholars who receive permission to travel abroad in order to participate in conferences must have the content of scholarly papers prepared for presentation abroad approved before departure. This practice was codified in a decree signed by V. Eliutin, the Soviet Minister of Higher and Secondary Specialized Education, which appeared in the June 1975, edition of the Ministry's Bulletin. Entitled "On the Procedures Governing the Participation of Scholars of Higher Educational Institutes at Foreign Scientific and Scientific-Technical Congresses, Conferences, and Symposia," the decree orders the rectors of Soviet institutes to "sanction the theses of reports to be presented at forthcoming scientific conferences only after their prior consideration and approval by institute councils or departments."

Other problems

The Final Act calls on the participating states "to facilitate, between organizations, institutions and persons engaged in education and science, the further development of exchanges of knowledge and experience as well as of contacts . . ." Four general problems have hindered the further development of scientific and educational exchanges from the American point of view. Three concern the qualitative aspects of existing exchanges. One is a quantitative problem.

The first is an imbalance in American interests which tend to be in the humanities, and the Soviet topics which tend to the sciences. According to one scholar, "Russians come over to assimilate our industrial knowhow while we study Old Slavonic syntax."²³ While this may be overstating the situation, 90 percent of Soviet IREX grantees who come to the United States are scientists. Almost 70 percent of our grantees specialize in the humanities (primarily history), followed by social science, language studies, and linguistics.²⁴ Only about 5 percent are scientists, mathematicians, or engineers. Until the percentage of scientists the Soviets send to the United States decreases, American exchange administrators will be unwilling to expand existing exchanges. One solution which the American Council for Learned Societies has employed in its agreement with the Soviet Academy of Sciences is to place mutually agreeable limits on the percentage of scientific participants.

²³ George Urban, ed. "Détente" (London: Temple Smith, 1976) p. 72.

²⁴ Kadushin, *op. cit.*, p. 1.

A second problem is a quantitative imbalance which exists in the comparative numbers of people traveling between the United States and U.S.S.R. in nongovernmental cultural and educational activities. While the official programs of exchange are numerically reciprocal, when taken together with the large number of private American organizations having cultural and educational relationships with the U.S.S.R., the fact is that far fewer Soviets visit the United States as exchange participants than vice versa. For example, in the Ohio State agreement with the Pushkin Institute, 25 American undergraduates go to the U.S.S.R. per quarter, while no Soviet students come here.²⁵ Under the American Council of Teachers of Russian agreement with Pushkin, 24 American college graduates go to Moscow per semester. No Soviets come to the United States.²⁶ The Council for International Educational Exchange in New York annually sends approximately 210 Americans to study at Leningrad University, 150 for a summer and 60 for a full semester. In addition, 50-75 go to the U.S.S.R. for short-term visits. In return, 75-100 Soviets visit the United States per year, with each visit lasting only 14-16 days.²⁷ While American high school students visit the U.S.S.R. through CIEE, the Citizen's Exchange Corp and other organizations, no Soviet high school students come to the United States.²⁸ People to People International, a private organization which arranges tour exchanges, in 1975 sent 65 American groups totaling 1,100 people to the U.S.S.R., while the Soviets sent 3 groups of approximately 45 people each here. The number for 1976 was at about the same level.²⁹

American exchange administrators have tried but failed to make these activities more of a two-way affair. Many of our exchanges involve young people and undergraduate students. Unfortunately, the Soviets have been unwilling to send their younger students to the United States. This is an area ripe for Helsinki-related encouragement.

A further problem surrounds the harassments which American exchange participants in the Soviet Union continue to experience. The problems are traditional ones. Luggage is searched without the permission of its owners. Americans are occasionally followed. Postal service to and from the United States is sometimes interrupted. The unfortunate persistence of these conditions hinders the expansion of the exchanges.

Finally, there is an additional problem as a result of the Soviet exchange dilemma referred to above (see p. 161). In order to combat what they perceive to be a state of ideological war, the Soviets have politicized some of the educational exchanges. American exchange administrators have reported that the quality of lectures given by Soviet professors to Americans studying in the U.S.S.R. has gone downhill due to political moralizing. In an example of an attempt to introduce politics into the classroom, Russian language professors required U.S. students in the U.S.S.R. in early 1977 to write poems in honor of Lenin's birthday. The Americans respectfully declined.

²⁵ CSCE staff interview with Ohio State official.

²⁶ CSCE staff interview with ACTR official.

²⁷ Irving Becker in a Discussion Paper at Airlie House.

²⁸ CSCE staff interview with State Department officials.

²⁹ CSCE staff interview with People-to-People Administrator.

Furthermore, the Soviets periodically use the exchanges as a vehicle to deliver political messages. For example, one group of American exchangeees recently in the U.S.S.R. were told that because of the Carter administration's views on human rights and the resulting deterioration of Soviet-American relations, it would be impossible for the Soviets to expand that particular exchange, despite an American offer to do so. The Russians also stated that it was even difficult for them to maintain the exchange at its present level.

Summary

The problems examined above all predate Helsinki. The nearly 20-year history of the exchanges has seen very significant progress in eliminating these difficulties. Since August 1, 1975, this progress has been augmented by CSCE, but it would be inaccurate to say that the Helsinki Final Act was the only major cause of the movement achieved during the last 2 years. Expansion of the exchanges, as well as success in solving the above-mentioned problems, would probably have continued without the Final Act.

However, the Final Act has served as one lever which American exchange administrators use to press their Eastern partners for further improvements. Staff interviews have confirmed that American educators invoked Helsinki in periodic discussions with Soviets and East Europeans. One university official stated that in a recent trip to Moscow State University he made frequent reference to the Basket III section on education. Another administrator said that he uses CSCE—to get what additional leverage we can as a reminder to the Soviets of the commitments they made at Helsinki. There's no doubt in my mind that Helsinki has aided discussions both of problems arising in the exchanges and in elaborating new directions for future collaboration.

One way some of the problems discussed above can be alleviated would be to establish in Moscow an "exchange office." Permanent representatives of individual exchange programs could then be on hand to aid American exchangeees who face especially difficult obstacles to the effective conduct of their work. Such an office would also promote the development of new exchanges by providing more frequent opportunities for Soviets and Americans to meet in person and discuss future prospects of extended relations.

CULTURAL EXCHANGE

The Commission has little evidence to suggest that CSCE has had the same stimulative effect on cultural exchange as it has had in the field of education. The artistic tastes of the American public remain a matter of individual choice, and the post-Helsinki period has not seen these tastes transformed by a surge in demand for the output of Eastern writers, artists, filmmakers or performers.

U.S. audiences tend to respond more to a work's inherent quality and presentation than to its geographic or ideological origins. A Dixieland arrangement of "Midnight in Moscow," based on a popular Soviet tune, becomes a hit because of its musicality, not its provenance.

The American system is not geared to provide extensive governmental sponsorship for cultural imports, but American audiences, nonetheless, have long shown themselves responsive to high-quality

performing artists, cultural exhibits and films from the Communist nations.

That response can be considered to be Final Act implementation. Generated by the public and not by the government, it satisfies the Helsinki objectives of "promot[ing] access by all to . . . cultural achievements [and] develop[ing] contacts and cooperation among persons active in the field of culture."

Performances and exhibitions of Eastern culture in the United States in 1977 included exhibitions of Russian costume and Russian and Soviet painting at New York City's Metropolitan Museum of Art. The latter exhibit was the largest Soviet art show ever displayed in the United States. The New York Museum of Modern Art was the site of an April Film Festival whose repertoire included the Hungarian film, "When Joseph Returns," a Soviet Georgian film "The First Swallow," and an East German film entitled "Coming of Age." This fall in Washington, D.C., the American Film Institute, with the Kennan Institute, will sponsor a festival of Soviet films in commemoration of the 60th anniversary of the Russian Revolution.

April was an especially busy month for presentations of Eastern culture in the United States. Soviet poet Bella Akhmadulina toured the country giving a series of poetry readings. While one Washington theater showed Soviet film director Andrei Tarkovsky's "Solaris," another was presenting a festival of filmed Soviet ballet performances. Two plays performed at Washington's Arena Stage in April were "Catsplay," by Hungarian playwright Istvan Orkeny; and "The Lower Depths," by Soviet playwright Maxim Gorky. The latter was directed by Romanian director Liviu Ciulei. The former is scheduled to open at the Guthrie Theater in Minneapolis in the fall of 1977. In addition, Yale University was the site of an April opening of "White Marriage," written by the Polish poet Tadeusz Rosewicz and under the direction of Polish filmmaker Andrzej Wajda.

The summer of 1977 will see the Washington premier of "Old World," a sentimental comedy by the U.S.S.R.'s Aleksei Arbuzov, which will run for 6 weeks at the Eisenhower Theater of the Kennedy Center. The following performing art groups have appeared in 1977 at the Kennedy Center: the Leningrad Philharmonic (February 4); the Yugoslav chamber music ensemble Solisti de Zagreb (March 20); the Czech Philharmonic (March 26); and the Yugoslav Folk Dance Company (March 27).

"Estrada," a Soviet variety show, will open a 3-month North American tour in New York City on September 20. The show will feature acts from the Moscow Circus, as well as several groups of Soviet singers and dancers. In addition, the Yatran Ukrainian Dance Company will begin a similar tour at Radio City Music Hall on September 21.

Millions of American television viewers had the opportunity to become familiar with many aspects of Soviet culture in 1977. On March 8, the Public Broadcasting Service broadcast nationally a National Geographic Society special called "The Volga." PBS also showed a series of eight classic Soviet films from January through March. All from the early age of Soviet filmmaking, the films were: "Potemkin," "Mother," "October," "Storm Over Asia," "Earth," "Aleksandr Nevsky," and "Ivan the Terrible," parts 1 and 2.

On July 7, NBC broadcast highlights of Igor Moiseev's Russian Dance Festival. The period July 16-July 23 was an especially full one with respect to Eastern culture. On July 16, CBS Sports Spectacular carried the Riga International Gymnastics Meet. On the 19th, 20th, and 21st, PBS continued a dramatized series of Leo Tolstoy's "War and Peace." On the 21st, PBS's children's show, "The Big Blue Marble," centered on a young Russian gymnast training for the Olympics. On July 22, CBS broadcast the first of two one-hour specials featuring the Moscow Circus. And on July 23, CBS broadcast a Czechoslovak children's film.

East European exhibitions in the United States in 1977 included a Bulgarian display of Thracian Art, which opened at New York City's Metropolitan Museum in the summer. Twenty-two Polish artists were represented in an exhibit of contemporary tapestries and weavings that opened its 2-year U.S. tour at the Smithsonian's Renwick Gallery in Washington, also in the summer. Arrangements are also proceeding for a major exhibit of works from East Germany's Dresden Museum, which is scheduled to open in Washington, D.C., in early 1978. Finally, at the level of the individual artist, Vladas Vildziunas, one of Lithuania's leading sculptors, came to the United States on a private visit this spring. Within a few months he arranged exhibits of his monumental, abstract works in New York and Los Angeles galleries.

Culture and currency

The big names of American dance, theater, and music do not visit the Soviet Union because the Soviet booking agent, Goskontsert, does not make it financially worth their while. On the other hand, the Soviets consider the financial successes of their artists' performances in the United States one of the justifications for the performing arts exchanges.

Choreographer Robert Joffrey, who brought his ballet troupe to the U.S.S.R. in 1975, comments on the situation: "Economically it's zero for us. We don't lose and we don't make. You have to decide to go and perform for purely cultural reasons."³⁰ For example, in 1976 Goskontsert paid \$2,500 per concert for the New York Philharmonic. The orchestra normally commands a fee five times that amount.³¹

The Soviet Union, on the other hand, reaps considerable hard currency from foreign tours of performing artists. In the United States, private impresarios pay an agreed-upon fee to Goskontsert that limits the financial risk for the Soviets and indeed insures a profit. In the case of a prestigious group such as the Bolshoi Ballet, the fee is believed to be approximately \$70,000 a week. Other Soviet groups range down to \$30,000 a week. Top Soviet performers, such as the pianist Emil Gilels, can command something like \$5,000 a performance.³²

Although this profit imbalance in the performing arts exchanges does not prevent Americans from touring the U.S.S.R. (the bilateral Soviet-American exchange agreement insures that American perform-

³⁰ Quoted in Herbert Kupferberg's yet to be published Background Paper for the 20th Century Fund Task Force on Soviet-U.S. Cultural and Scholarly Exchange (March 1977), pp. III-3, 4.

³¹ *Ibid.*, p. III-3.

³² *Ibid.*, p. III-6, 7.

ing artists will not lose any money), an increased Russian willingness to fatten the purse would encourage more high-caliber American artists to participate in the exchanges.

CONCLUSION

Although Western artists, scholars, and scientists are not yet able to interact freely with their Soviet and East European counterparts, the Commission has found that in the period following the signing of the CSCE Final Act the Basket III areas in which the most progress has occurred have been the sections on cultural and educational exchange. Progress has been especially good on the quantitative side of the exchanges, namely, the extensions of relations. Since Helsinki, the United States has concluded negotiation of its first intergovernmental exchange agreements with three East European countries with whom no official agreements existed before Helsinki: Bulgaria, Hungary, and Czechoslovakia. The first two agreements have already been signed. Although these new arrangements, as well as the development of ongoing cultural and educational programs with other Eastern countries probably would have, with time, occurred anyway, the existence of the Final Act has accelerated the process.

Two problems which predate Helsinki continue to limit the progress which has taken place. First, the United States has not sufficiently funded the promotion and expansion of the exchanges. New public and private efforts are required to produce the funding needed to maintain and expand our bilateral exchanges with the East. Second, Eastern restrictions on the access of Americans to scholarly materials and on their ability to travel for professional purposes have impeded Final Act implementation. The continuation of these qualitative problems continues to be a roadblock to further quantitative expansion of the exchanges.

Progress in overcoming these impediments will also serve to promote growth in the financing of U.S. participation in exchange activities. The opportunity to review the record of the exchanges at the Belgrade Conference is an opportunity, as well, to convince the Soviet and East European participants that small adjustments on their part can stimulate substantial responses from the United States.

APPENDIX A

RELIGION IN THE U.S.S.R.—AN INTRODUCTORY SURVEY¹

INTRODUCTION

At present, there are six Churches in the Soviet Union which are members of the World Council of Churches: the All-Union Council of Evangelical Christians and Baptists, the Armenian Apostolic Church, the Evangelical-Lutheran Church of Latvia, the Evangelical-Lutheran Church of Estonia, the Georgian Orthodox Church and the Russian Orthodox Church. Of these churches, the Russian Orthodox Church is the largest—with an estimated membership of 30 million; the Armenian Apostolic Church is the oldest—dating back to the fourth century; and the Evangelical Christians-Baptists is the most mission-oriented. In addition to these six churches, there are numerous other religious groups in the Soviet Union, some of which are recognized by the state, others are not. Among these are the Latin and Eastern-Rite Catholics (who are mostly in Lithuania and Ukraine), Lutheran and Reformed believers of German origin who live in various parts of the U.S.S.R.; reform Baptists and Pentecostals who have refused to join the Union Council of Evangelical Christians and Baptists and are therefore considered "illegal" by the Soviet authorities; and the Old Believers, a group which broke away from the Russian Orthodox Church in the 17th century. Still other religions include Islam (centered in Central Asia, Azerbaïdzhan and among the Tartars, numbered at 16 million believers) Judaism, and Buddhism.

RELIGION AND LAW

All these religions exist within an atheist state which has never hidden its antipathy towards religion—dating back to January 1918 when the "Decree on the Separation of the Church from the State and the School from the Church" was passed, confiscating all church property. The early years of Soviet power saw an intensive wave of persecution of all religions, with thousands of priests, monks, nuns, rabbis, and mullahs dying in prison camps. The "Law on Religious Associations" of April 8, 1929, established the basic Soviet law on religion—the basic tenet of which is that churches are nonlegal organizations and subject to special restrictions on their influence and growth. 1929 ushered in a period of Stalinist terror when sudden arrests and deaths in concentration camps became widespread for ordinary religious people—Orthodox peasants from Russia, Catholics from Ukraine, Jews from all over the U.S.S.R., Moslems from Islamic republics, and members of various Protestant sects—all were subject to the lawlessness of those years. The third wave of intense antireligious persecution occurred during the Khrushchev years, when the number of functioning Orthodox churches was cut in half and all religions were pressured into accepting even more restrictive Soviet regulation of their activities. This period marks the split of the Baptists and Pentecostals into "registered" (in the All-Union Council) and "unregistered" congregations. In 1975 there were a series of modifications of the basic legislation on religion dating back to 1929, placing even tighter controls on religious life in the Soviet Union.

If one examines the Soviet Constitution, it becomes clear that discrimination against religion is part of the very structure of the Soviet state. Article 126 does not mention the church as being one of the "public organizations" to which people have a right to belong, thereby denying the church status as a legal organization. Article 124 guarantees Soviet citizens "freedom of religious

¹ This paper draws extensively on material published by Keston College, the Centre for the Study of Religion and Communism, in Kent, England and particularly on its publication: "Religious Liberty in the Soviet Union."

worship and freedom of anti-religious propaganda"—a previous guarantee of "freedom of religious and anti-religious propaganda" was amended in 1929 to exclude the right to conduct religious propaganda. Article 125 promises Soviet citizens freedom of speech, press, and assembly—but prefaced with the significant proviso that these freedoms must be "in conformity with the interests of the workers and in order to strengthen the socialist system," thereby implicitly giving the state the right to decide what is and is not in the interests of the workers—in other words, a *carte blanche* for the Soviet system. Thus, the Soviet Constitution in effect arrogates to the state the right to decide how individual liberties are to be used. The church is denied status as a legal institution—thereby making it subject to the will of the state.

OTHER RESTRICTIONS

In addition to the published legislation on religion, there are also secret party directives, decrees and regulations which have never been published, yet are still in force. The Soviet people do not know about the majority of these legal regulations and often do not even suspect that they exist. Such ignorance is again part of official policy so that even when religious organizations "register" with the Soviet authorities, they usually do not know what are the specific legal requirements of such "registration."

Since the Soviet Constitution does not accord churches legal status as organizations, Soviet law totally ignores the church as a separate hierarchical organization which unites all believers of the same creed. Rather, the position of the church is defined by a special "Law on Religious Associations," codified and partly disclosed in 1975, putting churches under regulations enforced by the administrative system of the state and its police. The effect of this legislation is to atomize the church into thousands of "religious associations" (a group of people above the age of 18 consisting of at least 20 people) and "religious groups" (a group of people above the age of 18 with less than 20 members) each of which is really a separate object of police regulation. Each one of these groups must request special permission for its existence from the state (not from the church), for without such permission (which is usually referred to as "registration") the very existence and activity (whatever it may be) of a religious association is considered illegal and punishable as a criminal offense.

In order to exist legally, a religious society must meet four major requirements:

- (1) It must be "registered".
- (2) It must have a "special prayer building" (which can be confiscated any time the State authorities decide they have a more important use for the building).
- (3) It must conclude an agreement on rent for the "prayer building" with authorities (including the setting of insurance rates by the government, frequently at exorbitant rates which cannot be appealed).
- (4) It must find and "hire" for itself a priest (in 1961 this right was abrogated by the setting up of parish executives approved by the state which hires the local priests as the servants of its will—and Soviet law).

The threat of "revocation of registration" always hangs over the heads of believers in the Soviet Union. There is a chronic shortage of all religious literature, particularly the Bible and prayer books. Two other significant restrictions on religious activity in the U.S.S.R. are in relation to youth—no one under 18 is allowed to attend religious meetings, and parents cannot openly teach their children religious precepts. If they do, it is at the risk of losing them to a state orphanage.

There are several factors which should be kept in mind in looking at a survey of major religions in the U.S.S.R. All available information does point to a religious revival in the Soviet Union today—a renewal of interest in religious life extending to all classes and ethnic groups. Another important element in understanding the role of religion in the Soviet Union, is that it often serves as an expression for sentiments which are otherwise blocked—feelings of national pride and identity. Thus, some of the new religious revival is also an expression of a desire for a certain degree of legitimacy for un-Soviet (not necessarily anti-) feelings.

ESTABLISHED CHURCHES

The Armenian Apostolic Church occupies a unique position in Soviet religious life. After the war, it helped persuade some 100,000 Armenians to come back to the Soviet Union and won some concessions from the state in return. It receives substantial financial help from Armenian communities abroad. Before Soviet rule was established in Armenia, it had 1,446 parishes; in 1962 it claimed 200. Only 6 monasteries survive with 25-30 monks at the largest one. The church is said to have about 3 million members—with over half the population attending church and with nearly three-quarters of all Armenian babies baptised.

The Georgian Orthodox Church seems to have about 40 working churches, whereas before the Revolution there were some 2,000 parishes. During the 1920's, the church in Georgia was severely persecuted for its leading role in the Georgian national resistance to Soviet rule. It is not known what proportion of the 4 million Soviet Georgians go to church. The only seminary was reported in the late 1960's to have 10 students—before the Revolution there were 400 seminarians—and educational levels are said to be low.

The Russian Orthodox Church has been the church of most Russians for almost 1,000 years. It functions today under severe restrictions and a shortage of church buildings—there are about 7,000 compared with 54,000 in 1914. It is difficult to say how many people consider themselves to be Orthodox, but 30 million is a probable figure out of the total population of the U.S.S.R. of 250 million. There are three seminaries and two academies with a total of 800-1,000 students selected under state supervision, half of whom are doing correspondence courses and not all of whom are ordained. In 1966 there were an estimated 10,000 priests whereas in 1914 there were 51,000. Today there are 20-25 monasteries and convents compared with 1,025 in 1917.

The Evangelical Lutheran Church of Latvia was the target of large-scale persecution after 1949, aimed at the German associations of most Lutherans in the U.S.S.R. There were about a million Lutherans in Latvia in 1941 served by 288 pastors; in 1973 there were reported to be 350,000 Lutherans out of a total population of 2 million. There is an acute shortage of clergy, although theology courses seem to have become more regular in the past decade.

The Evangelical-Lutheran Church of Estonia has a history similar to its sister church in Latvia, although it has a somewhat stronger position, due to the leadership of Archbishop Jan Kiivit until 1969. Membership of the church was reportedly 250,000 in 1973, out of total population of little more than a million. In 1969 there appeared to be 159 congregations, 125 ministers and 47 churches. The small theological institute in Tallinn has about 25 students.

The All-Union Council of Evangelical Christians and Baptists (AUCECB) groups Baptists, Evangelical Christians, Pentecostals, and Mennonites, but far from all of these belong to the All-Union Council which came into being with Stalin's permission in 1941 (the war years saw a relaxation of persecution of the church as the Soviet leadership used religion as a means of rallying the population to help in the war effort). Congregations within the official union have 300 full-time and about 30,000 part-time presbyters, deacons, and preachers, and they may have as many as 5,000 churches. Officially, the number of believers is given as 500,000 but it is probably considerably higher than that figure. There are perhaps 1,000 congregations which remain outside the All-Union Council or left it in the early 1960's over the issue of alleged compromise with the State—these are often called reform Baptists. The All-Union Council operates a correspondence course in theology and is able to send a few students to seminaries in the West.

RELIGIOUS DISSENT

There are two main ways in which religious dissent is expressed in the U.S.S.R. In terms of numbers of people, the most significant protest against the present institutional and cultural Soviet structures which are discriminatory to religion are those groups which refuse to "register" with the Soviet authorities. In refusing to register, members of such religious groups as the reform Baptists, the Pentecostals, the True Remnant sect of the Seventh-Day Adventists, the Jehovah's Witnesses, the Uniate Catholic Church in Ukraine (sometimes known

as the Church of the Catacombs)—numbering into the tens of thousands—reject any compromises with the secular state (such as are required in “registration”) and willingly subject themselves to the penalties of their religious belief which Soviet law deems criminal.

Their prayer meetings are often forcibly disrupted, high fines are imposed on anyone leading such meetings, long and severe prison sentences are given to people who continue to practice their “illegal” religions—even in prison, persecution of them does not end, for they are taunted by fellow prisoners. The children of such religious people are mocked at school by teachers and other students, and get deplorable grades which close the way to them for higher education. For some sects, such as the Pentecostals, it is against the precepts of their religion to bear arms and, when they refuse to participate in universal conscription, they are sent to prison or to punishment battalions. Uniate or Eastern Rite Catholics, who were “united” with Orthodoxy under pressure from the state in the 1940’s—the largest illegal religious group in the Soviet Union—continue to hold secret prayer meetings and to ordain their outlawed clergy, and press for their rights in the Western Ukraine. Among these groups, there is a strong movement to emigrate from the Soviet Union since these people have experienced three generations of severe repressions for their religious beliefs. Some, such as the Pentecostals want to go to Israel which they consider their Promised Land, others want to go to any country where they will be free to practice their religion in peace.

The other main type of religious protest is within the “registered” more established churches, such as within the Russian or Georgian Orthodox Churches or the Lithuanian Catholic Church, where dissent takes the form of both letters and petitions to church or secular authorities from members criticizing conditions within the church, and *samizdat* publications. In recent years, there has been considerable ferment among the more established churches in the U.S.S.R. In Georgia, in response to outcries against corruption, there was an investigation of KGB infiltration into the church hierarchy which had resulted in stealing of church treasures. “The Chronicle of the Lithuanian Catholic Church,” a *samizdat* publication, reveals various repressive actions taken by the Soviet authorities against Lithuanian believers and the church hierarchy under its control. Within the Russian Orthodox Church, there have been petitions from believers, both to the West and to Soviet church and state authorities against the closing or destruction of churches, in support of priests who had been removed because of their independent views, and requesting more religious literature. Father Gleb Yakunin and Lev Regelson wrote a series of letters to the World Council of Churches calling for investigation of repression of religion in the U.S.S.R., showing how the official church is totally subordinate to the state in all matters, revealing how secular authorities have the ultimate control over the clergy at all levels, and stating that those representatives of the Russian Orthodox Church who are allowed to attend meetings abroad are merely apologists for the status quo.

APPENDIX B

LEAVING THE SOVIET UNION: THE EMIGRANT'S EXPERIENCE

As part of its inquiry into implementation of the Helsinki accord, the Commission developed and administered a 21-item questionnaire designed to document recent Soviet emigrants' experiences in leaving the Soviet Union to be reunited with family abroad. The questionnaires were administered in Israel, Italy, and the United States to 757 emigrants who left the Soviet Union after the Helsinki accord was signed, as well as to 278 who emigrated earlier.

The Commission would like to express its gratitude to the Israeli government, the Jewish Agency, the Hebrew Immigrant Aid Society, the Organization for Rehabilitation Through Training School in Rome (ORT), the Tolstoy Foundation, and the International Rescue Committee for their invaluable assistance in completing this project. In addition, the Commission would like to thank the House Information Systems for computerizing the data obtained from the questionnaire and for preparing the graphs.

BACKGROUND

The questionnaire, in Russian, was formulated to elicit information about actual Soviet practices and procedures regarding family reunification applications, particularly in relation to the Final Act, and about any changes in those practices and procedures since August 1975. It sought to identify, among other practices, the types of documents required, the length of time between application and approval, the cost of the application and emigration in both material and social terms, the degree of assistance or harassment experienced by applicants, the experience of those whose applications had been refused once or more, the influence of the Final Act on facilitating emigration, and the knowledge emigrants had of the success of others in seeking to emigrate.

The survey results were tabulated separately for the different republics in which the respondents lived (and, in the case of the Ukrainian Republic and the Russian Republic, by cities within the republic), and by different professional categories (professional: doctors, lawyers, engineers, academics, scientists; non-professionals; and students) in order to determine whether experiences varied in different areas or for different social groups.

The findings are necessarily incomplete. The 1,035 emigrants surveyed—90 percent of whom were Jewish because Jews constitute the largest group permitted to leave the Soviet Union in recent years—represent only a fraction of the 27,000 Soviet Jews who have left since August, 1975 and of the 130,000 who have emigrated since 1970. The responses also reflect the experiences of only the successful applicants and may not be representative of the experiences of those who have not been able to leave the Soviet Union. Nevertheless, although the statistical results are partial and less than a perfect sampling, the Commission believes they help demonstrate general patterns of behavior and common experiences of Soviet Jews seeking to leave the Soviet Union.

Most of the figures cited hereafter will be those of the post-Helsinki sampling in order to document the situation as it exists since the signing of the Final Act. The pre-Helsinki sampling will be used as a point of comparison to previous practices.

THE SAMPLE

The responses do reflect the views of a fairly broad geographical and professional distribution of Soviet Jewry. The total respondents, nearly half professional, half nonprofessional, left homes in 15 of the Soviet republics—with the largest groupings coming from those areas with the largest Jewish populations: 410 from Ukraine including 133 from Odessa; 272 from the Russian SFSR; 133 from Moldavia; 35 from Belorussia; 24 from Georgia; 16 from Azerbaidzhan; 2 from Abhazia; 6 from Armenia; 17 from Dagestan; 10 from Uzbekistan; 6 from

Tadzhikistan; 56 from Lithuania; 45 from Latvia; 2 from Estonia; and 1 from Kazakhstan. Close to three-fifths of the respondents were male, and over half were between the ages of 21 and 40; one-third were between 41 and 60 years old; 4 percent were under 20 and 6 percent over 60 years of age.

They reported leaving the Soviet Union for a variety of reasons, most frequently mentioning, among others, "discrimination on the basis of nationality" (over half of the total respondents). Other major reasons cited were "to be reunited with family abroad" (31 percent) and "because of limitations on my civil rights" (35 percent). (Most respondents listed multiple reasons, so the percentages in this question, as well as others, reflecting that duplication, will total over 100.) Although those interviewed were promised anonymity in the Commission's final report, it is noteworthy that close to 80 percent of them did voluntarily sign the questionnaires they completed.

FINDINGS

THE PROCESS

The first step in the application process—receiving the all-important *vyzov*, or official invitation, from relatives abroad—has caused prospective emigrants no more problems in recent years than in the past. Three-quarters of those surveyed both before and after Helsinki reported no difficulties in receiving their *vyzovs*, while close to one-fifth of the sampling in both groups were unable, for various reasons, to receive their *vyzovs* with ease.

As is apparent from the answers of the post-Helsinki applicants, receiving a *vyzov* poses different complications in different areas of the Soviet Union. Less than one-tenth of the applicants surveyed from Chernovtsy in Ukraine reported any problems, whereas, of those coming from the Russian Republic—27 percent had difficulties; 42 percent of those from Russian cities other than Moscow and Leningrad also cited difficulties. Twenty-two percent of the Kiev applicants surveyed indicated some problems.

All did, of course, eventually receive their *vyzovs*, and the majority of the applicants reported receiving them from Israel (88 percent) via registered mail (78 percent).

With *vyzov* in hand, most applicants are still in the dark about the specific procedures and documentation required to make an application. When asked if they were ever shown any official regulations concerning procedures required in applying to emigrate, approximately three-quarters of the respondents in both the pre-Helsinki and post-Helsinki groups answered that they had not. Only 14 percent said that they had.

In Ukraine, official regulations are even less readily available—85 percent were never shown such instructions, only 8 percent were; in Lvov, only 3 percent ever saw and 94 percent never saw an official regulation on emigration procedures. Respondents from the major Russian cities reported greater ease in obtaining official rules: 33 percent from Leningrad and 20 percent from Moscow responded positively to the query—as did 28 percent from Latvia and 42 percent from Azerbaidzhan. No one surveyed from the smaller Russian cities had ever been shown official regulations.

The fact that most of the sample had not been shown official application procedures may explain the variety of responses to a question concerning the types of documents each was required to present. One conclusion, however, is evident from the results; the post-Helsinki Soviet reform of eliminating the previously required *kharakteristika*, a semiofficial resume, from the required application documents has had a practical—though not a total—effect. It is significant that the great majority of the pre-Helsinki emigrants—96 percent—were required to present a *kharakteristika* while only 32 percent of the more recent emigrants reported the need to submit the document.

One-third of the recent emigrants, however, did cite the *kharakteristika* as a required document, indicating that the reform has not penetrated all levels of the Soviet bureaucracy.

From the post-Helsinki results, the reform has evidently had more of an effect in Kiev, Leningrad, Moldavia, and Latvia, than it has had in Odessa, Chernovtsy,

Moscow, or other Russian cities. Twenty-one percent, 23, 25, 22, and 40, 44, 38, and 42 percent, respectively, were required to submit a *kharakteristika*.

In addition, 89 percent of the post-Helsinki arrivals indicated that they had to present with their application a document from their place of work, which often has the same effect as obtaining a *kharakteristika* in that it informs the applicant's employer of his desire to emigrate.

Most of the sample (81 percent) were also required to present a document from their place of residence. Moreover, though all the emigrants questioned were adults over 18 years of age, 73 percent were required to document their parents' approval of their desire to leave. Of the 278 pre-Helsinki emigrants, only 53 percent had had to certify their parents' consent.

Another post-Helsinki Soviet reform—the announcement that passport fees would be reduced from 400 to 300 *rubles*—is also reflected in the survey results. Over three-fourths of the emigrants who left before August 1975, reported paying 900 *rubles* (400 *rubles* for a passport fee+500 *rubles* to renounce their citizenship) in order to leave the country, while approximately the same percent of the post-Helsinki grouping reported paying only 800 *rubles*.

THE WAIT

After the application forms and the required documents were submitted, the prospective post-Helsinki emigrants generally had to wait a shorter time for final approval than those who preceded them. Seventy-five percent of the later sampling reported waiting 6 months or less for their emigration approval, whereas only 59 percent of the earlier emigrants received approvals in that short a time. Nevertheless, nearly 1 post-Helsinki applicant in 8 (12 percent) had to wait from 1 to 6 years for an exit visa, still a lower percentage than the 22 percent of the pre-Helsinki grouping.

Waiting periods vary considerably depending on where the applicant lives and what he does: in Odessa, in the Russian Republic, excluding Moscow and Leningrad, and in Lithuania, only 51 percent, 48 percent and 34 percent respectively, of those surveyed waited 6 months or less for final approval of their application forms. Of those applying in Lithuania after the Final Act—3 out of 5 of them, professionals—43 percent had to wait more than 1 year, and 24 percent 3 years or more—a markedly higher percentage than for the post-Helsinki sample as a whole. Among the Chernovtsy grouping, 12 percent had to wait from 3 to 5 years.

In Kiev, Lvov, and Leningrad, however, 88, 85, and 83 percent, respectively, waited 6 months or less.

Of the total post-Helsinki sample, twice as many professional applicants (8 percent) as non-professional applicants (4 percent) had to wait 3 years or more.

Various forms of post-application harassment have continued—and have slightly increased—since CSCE, according to the survey results. Despite the Final Act's pledge that the presentation of an application "will not modify the rights and obligations of the applicant," 57 percent of the emigrants sampled who left after the Final Act's signing reported being subject to some form of harassment as a result of their application—51 percent of the pre-CSCE sampling reported the same.

The most frequently noted form of harassment was loss of job. Over one-third of the post-Helsinki respondents were forced to leave their jobs as a result of their application. Other reported "modifications" of rights include: being expelled from academic institutions (9 percent); being expelled from other organizations or institutions (5 percent); being forced out of one's home (8 percent); being forced to divorce one's spouse (5 percent); being deprived of other legal rights (5 percent); being drafted into the army (3 percent); and being demoted at work (7 percent).

Once again, where and who the applicant was in the Soviet Union did affect the degree of harassment to which he was subject. Where in Georgia, only 20 percent wrote of application-related abuses, in Moldavia and Dagestan, 74 and 82 percent, respectively, of all the post-Helsinki applicants surveyed, and 90 percent and 100 percent of all the professional applicants, complained of mistreat-

ment following their applications. A significantly large number of emigrants from Leningrad, Kiev, and Chernovtsy reported similar abuses (65, 65, and 73 percent, respectively).

Consistently, from almost all the cities and republics, more professionals complained of application-related mistreatment than did the nonprofessionals.

In the total Soviet post-Helsinki sample, of which 52 percent of the nonprofessionals reported being harassed, 62 percent of the professionals reported the same. In Leningrad, complaints were voiced by 56 percent of the nonprofessionals, and 73 percent of the professionals.

Interestingly, in Lithuania, where waiting periods are generally considerably longer than elsewhere, only 28 percent of the respondents noted any type of harassment.

REFUSALS

Initial and multiple refusals of application requests continue into the post-CSCE period, but, based on the two samples, such denials come only half as often as before. Thirty-two percent of pre-Helsinki emigrants were refused their initial application request, compared to 15 percent of the post-Helsinki group.

Nevertheless, in Dagestan, 82 percent of the post-CSCE emigrants reported receiving at least one refusal; in Moscow, 23 percent; in Lithuania, 43 percent; and in Latvia, 22 percent. Only 8 percent of the respondents from Kiev and Moldavia, however, were refused their initial application request.

Once again, in many cases, the applicant who worked in a professional category had a higher chance of having his initial application refused than did a nonprofessional. In Kiev, for example, 12 percent of the professionals, 3 percent of the nonprofessionals, and 20 percent of the students reported receiving refusals; in Moscow, 24 percent of the professionals, and 15 percent of the nonprofessionals reported the same.

According to the post-Helsinki responses, "refuseniks" were more likely to be subject to some form of harassment as a result of applying than were those whose request had not been denied; 76 percent of those refused also reported being harassed.

Out of the total post-Helsinki "refuseniks" surveyed, one-fourth wrote they were refused three to six times, and 11 percent reported eight or more refusals. Twenty-two percent of the Russian Republic's refusenik sample were refused eight or more times. From the total post-Helsinki refusenik group, close to half (49 percent) said they were obliged to pay at least one other reapplication fee for their exit visas, and 58 percent of those had to pay it two or more times, despite a Soviet announcement that such duplicate fees were to be eliminated.

Although more refuseniks (62 percent) are now being given reasons for their refusals than before Helsinki (40 percent), almost no one (3 percent) receives that information in writing. Those who are told why their application has been rejected are most commonly given the reason that they possess state secrets (48 percent) or, more frequently in the post-Helsinki years, that their relatives abroad were not "close" kin (28 percent).

THE BORDER

Nearly two-thirds of the emigrants surveyed (65 percent), in both groups, reported being treated "incorrectly" by customs officials or border guards as they were leaving the Soviet Union. Forty-eight percent claimed they were forced to strip naked, 44 percent alleged that their bodies were searched, and 33 percent had belongings confiscated at the border.

FRIENDS REMAINING

A large grouping of the total post-Helsinki sample (41 percent) wrote of their family or friends remaining in the Soviet Union who were either refused permission to emigrate or were intimidated into not applying. That percentage was even larger in the groups from Leningrad, Moscow, Dagestan, and Georgia (53, 58, 64, and 60 percent, respectively).

THE FINAL ACT

In general, the emigrants who left the Soviet Union after the Final Act was signed were knowledgeable and optimistic about its effect on their emigration. Eighty-six percent knew about the Helsinki accord before they applied; 75 percent knew of its specific family reunification provisions. Most learned of the accord through the Soviet press and foreign radio broadcasts (76 percent). Close to half (46 percent) claimed the Final Act influenced their decision to emigrate and 59 percent believed that it made it easier for them to leave the Soviet Union.

CONCLUSION

While not as positive as the emigrants polled in assessing the effects of the Final Act on emigration, the results of the survey do indicate that emigration policies are being somewhat modified. As the survey shows, waiting times are shorter, refusals less frequent and passport fees lower. Nevertheless, official regulations are still not readily available, a significant number of people have to wait long periods for approval of their applications, a considerable number are still being refused, harassment of applicants continues, reapplication fees are still being imposed, border guards are still treating emigrants "improperly", and citizens are still made subject to arbitrary decisions by local officials.

QUESTIONNAIRE

Following are the questions included in the Commission's questionnaire to Soviet emigrants and the tabulations of the total answers received by the 757 emigrants who left after the Helsinki accord was signed (referred to as "Post") and the 278 who emigrated earlier (referred to as "Pre"). In questions where multiple answers were possible, totals are tabulated to include duplicate answers. The totals are given in percentages, rounded to the nearest whole:

1. When did you first apply for an exit visa? Day ___ Month ___ Year ___

2. When did you receive an exit visa? Day ___ Month ___ Year ___

Answers: Time Difference Between Questions 2 and 1 (How long waited for approval):

	0-3 months	4-6	7-9	10-12	13-20	21-36	3-5yrs.	5+ yrs.	No Answer
Post:	43%	32	8	2	4	2	5	1	3
Pre:	39%	20	7	2	4	5	7	6	9

3. When did you actually leave the Soviet Union? Day ___ Month ___ Year ___

Answers: Time Difference Between Questions 3 and 2:

	0-3 days	4-6	7-9	10-12	13-20	21-36	36+ days	No Answer
Post:	2%	2	4	7	26	35	18	5
Pre:	3%	2	6	4	16	35	14	20

4. How did you get your invitation?

- a. by registered mail? Post: 78% e other means? Post: 2%
Pre: 76% Pre: 1%
- b. at the Post Office? Post: 17% No Answer - Post: 2%
Pre: 21% Pre: 2%
- c. through friends? Post: 3%
Pre: 2%
- d. from Jewish activists?
Post: 1%
Pre: 2%

5. In what country does the person who sent you the invitation live?

Israel - Post: 88% USA - Post: 6% Australia - Post: 1% Other - Post: 2%
Pre: 96% Pre: 1% Pre: 0 Pre: 0

No Answer - Post: 4%
Pre: 3%

6. Did you have any difficulties in getting your invitation?

Yes - <u>Post: 19%</u> <u>Pre: 19%</u>	No - <u>Post: 75%</u> <u>Pre: 74%</u>	No Answer <u>Post: 6%</u> <u>Pre: 6%</u>
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7. When you made your application, were you required to present.

a. <u>karakteristika</u> - <u>Post: 32%</u> <u>Pre: 96%</u>	
b. a document from your place of work	<u>Post: 89%</u> <u>Pre: 86%</u>
c. a document from your place of residence -	<u>Post: 81%</u> <u>Pre: 95%</u>
d. approval of your parents	<u>Post: 73%</u> <u>Pre: 53%</u>
e. other documents	<u>Post: 69%</u> <u>Pre: 35%</u>
No Answer	<u>Post: 2%</u> <u>Pre: 0</u>

8. Were you ever shown any kind of official regulations concerning the procedures required in applying to emigrate?

Yes - <u>Post: 13%</u> <u>Pre: 15%</u>	No - <u>Post: 79%</u> <u>Pre: 74%</u>	No Answer- <u>Post: 8%</u> <u>Pre: 11%</u>
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Did you try to obtain such rules?

Yes - <u>Post: 26%</u> <u>Pre: 17%</u>	No <u>Post: 35%</u> <u>Pre: 34%</u>	No Answer- <u>Post: 39%</u> <u>Pre: 49%</u>
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9. After you applied to emigrate, were you or any other member of your family

a. dismissed from work?	<u>Post: 35%</u> <u>Pre: 30%</u>
b. expelled from an academic institution?	<u>Post: 9%</u> <u>Pre: 9%</u>
c. expelled from any other organizations or institutions?	<u>Post: 5%</u> <u>Pre: 12%</u>
d. forced out of your home or apartment?	<u>Post: 8%</u> <u>Pre: 2%</u>
e. forced to divorce your spouse?	<u>Post: 5%</u> <u>Pre: 3%</u>

- f. deprived of other legal rights? Post: 5%
Pre: 5%
- g. drafted into the army? Post: 3%
Pre: 4%
- h. subject to other forms of recrimination? Post: 9%
Pre: 10%
- i. demoted at work? Post: 7%
Pre: 3%
- j. none of the above - Post: 39%
Pre: 40%

No Answer - Post: 4%
Pre: 9%

10. Were you ever refused an exit visa?

Yes - Post: 15%
Pre: 32%

No - Post: 79%
Pre: 63%

No Answer - Post: 6%
Pre: 5%

If yes,

a. How many times?

	1 time	2	3	4	5	6	7	8 or more	No Answer
<u>Post:</u>	33%	17	10	5	5	4	0	11%	15%
<u>Pre:</u>	24%	22	15	8	9	3	0	16%	3%

b. How many months did you wait before you made a new application?

	1 month	2	3	4	5	6	7	8 or more	No answer
<u>Post:</u>	8%	9	5	2	1	11	1	29%	35%
<u>Pre:</u>	7%	5	6	1	1	7	3	27%	43%

c. Did you pay to reapply?

Yes - Post: 49%
Pre: 47%

No - Post: 27%
Pre: 35%

No Answer - Post: 24%
Pre: 18%

If yes, how much?

	10 rubles	20	30	40	50	60	70	80 or more	No Answer
<u>Post:</u>	0	0	27%	39	5	0	0	20	9
<u>Pre:</u>	2	0	7%	41	2	0	0	22	24

e. No Answer - Post: 10%
Pre: 27%

13. Do you have any family or friends who were refused permission to emigrate or were intimidated into not applying? Please describe their situation briefly.

Yes - Post: 41% No - Post: 32% No Answer - Post: 27%
Pre: 42% Pre: 42% Pre: 16%

14. Did you know about the Helsinki accord before you applied to emigrate? ("Post" answers only).

Yes - 86% No - 9% No Answer - 6%

Did you know about the provisions for family reunification?

Yes - 75% No - 8% No Answer - 17%

15. Did the accord have any influence on your decision to emigrate?

Yes - 46% No - 41% No Answer - 13%

16. Do you think the accord made it easier for you to leave?

Yes - 59% No - 24% No Answer - 17%

17. How did you learn of the Helsinki accord ?

From friends? 4% No Answer - 11%

From the press? 26% Other - 4%

From foreign radio broadcasts? 29% From friends and foreign radio? 3%

From friends and the press? 2%

From the press and the foreign radio? 21%

18. How old are you?

	1-20	21-40	41-60	over 60	No Answer
<u>Post:</u>	4%	57%	33%	4%	1%
<u>Pre:</u>	5%	43%	38%	10%	3%

What gender?

	<u>Male</u>	<u>Female</u>	<u>No Answer</u>
<u>Post:</u>	<u>60%</u>	<u>39%</u>	<u>1%</u>
<u>Pre:</u>	<u>56%</u>	<u>41%</u>	<u>4%</u>

Nationality?

Jewish	Non-Jewish	No Answer
<u>Post: 89%</u>	<u>9%</u>	<u>2%</u>
<u>Pre: 92%</u>	<u>1%</u>	<u>8%</u>

Party?

Party member	Non-Party member	No Answer
<u>Post: 4%</u>	<u>84%</u>	<u>12%</u>
<u>Pre: 3%</u>	<u>83%</u>	<u>14%</u>

Profession?

Professional	Non-Professional	Student
<u>Post: 49%</u>	<u>45%</u>	<u>6%</u>
<u>Pre: 32%</u>	<u>49%</u>	<u>15%</u>

19. Why did you leave the Soviet Union?

a. to be reunited with your family?	<u>Post: 31%</u>	
	<u>Pre: 31%</u>	
b. because of religious persecution?	<u>Post: 6%</u>	
	<u>Pre: 9%</u>	
c. because of limitations on your civil rights?	<u>Post: 37%</u>	
	<u>Pre: 30%</u>	
d. because of national minority discrimination?	<u>Post: 59%</u>	
	<u>Pre: 42%</u>	
e. other reasons?	<u>Post: 13%</u>	No Answer - <u>Post: 1%</u>
	<u>Pre: 18%</u>	<u>Pre: 4%</u>

20. Your last place of residence in the Soviet Union?

<u>Post: Ukraine 44%</u>	<u>RSFSR - 29%</u>	<u>Moldavia - 13%</u>
<u>Belorussia 3%</u>	<u>Georgia - 1%</u>	<u>Azerbaijan - 2%</u>
<u>Dagestan 2%</u>	<u>Abkhazia - .3%</u>	<u>Armenia .8%</u>
<u>Uzbekistan - .5%</u>	<u>Tadzhikistan .1%</u>	<u>Kazakhstan - .1%</u>
<u>Lithuania 3%</u>	<u>Latvia 2%</u>	<u>Estonia .3%</u>

<u>Pre:</u> Ukraine - <u>29%</u>	RSFSR - <u>20%</u>	Moldavia - <u>12%</u>
Belorussia - <u>5%</u>	Georgia - <u>5%</u>	Azerbaijan - <u>1%</u>
Dagestan - <u>2%</u>	Uzbekistan - <u>2%</u>	Tadzhikistan - <u>2%</u>
Lithuania - <u>13%</u>	Latvia - <u>10%</u>	

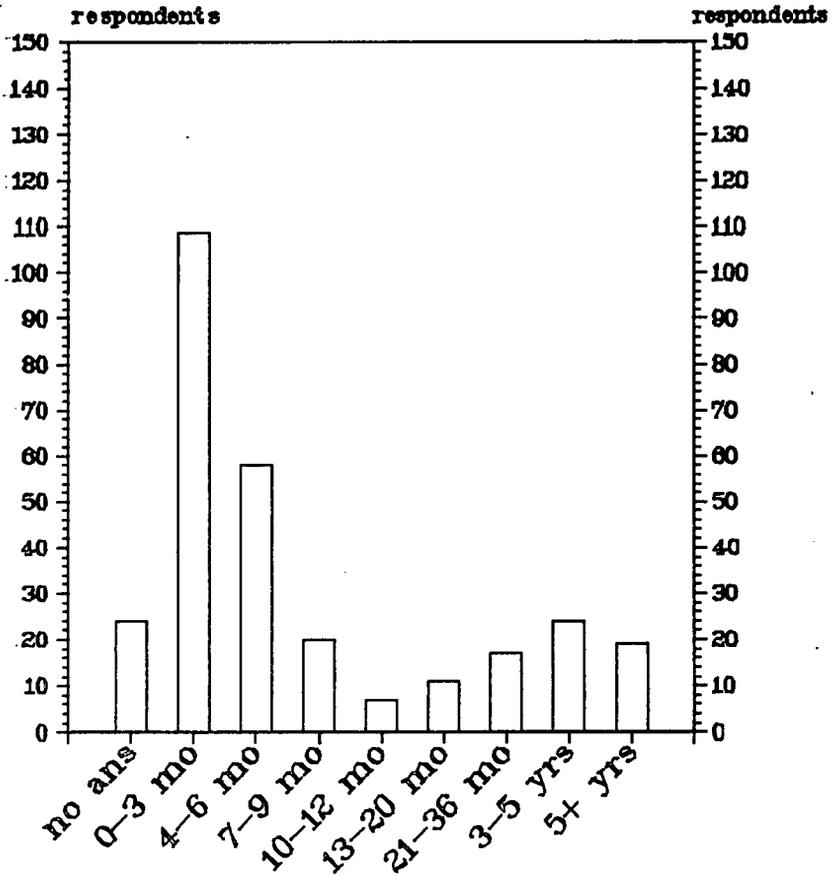
21 Do you have any relatives in the Soviet Union?

Yes - <u>Post: 86%</u>	No - <u>Post: 9%</u>	No Answer - <u>Post: 4%</u>
<u>Pre: 81%</u>	<u>Pre: 12%</u>	<u>Pre: 6%</u>

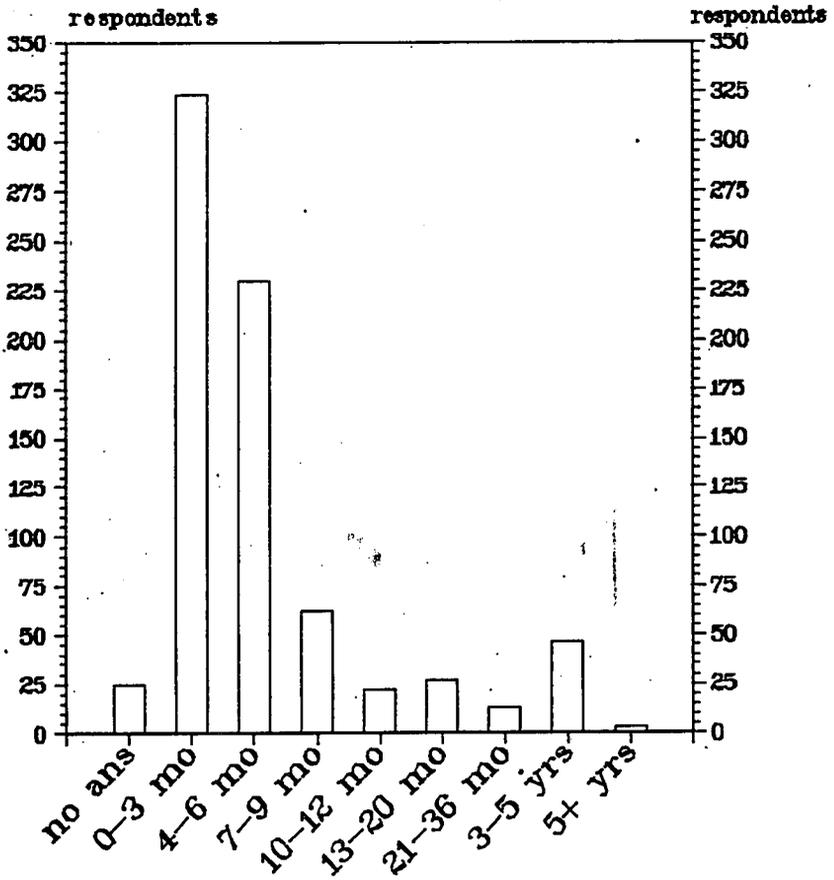
If yes, have they been subject to any harassment as a result of your emigration?

Yes - <u>Post: 14%</u>	No - <u>Post: 67%</u>	No Answer - <u>Post: 19%</u>
<u>Pre: 19%</u>	<u>Pre: 56%</u>	<u>Pre: 25%</u>

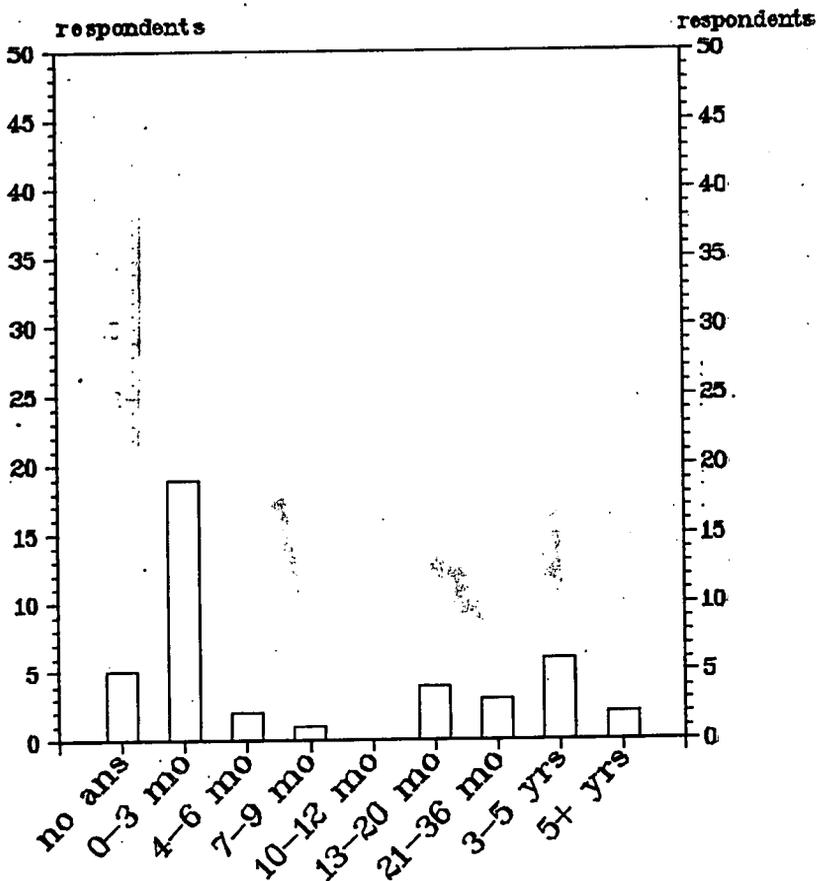
HOW LONG DID YOU WAIT FOR VISA?
PRE-HELSINKI ACCORD
TOTAL U.S.S.R.



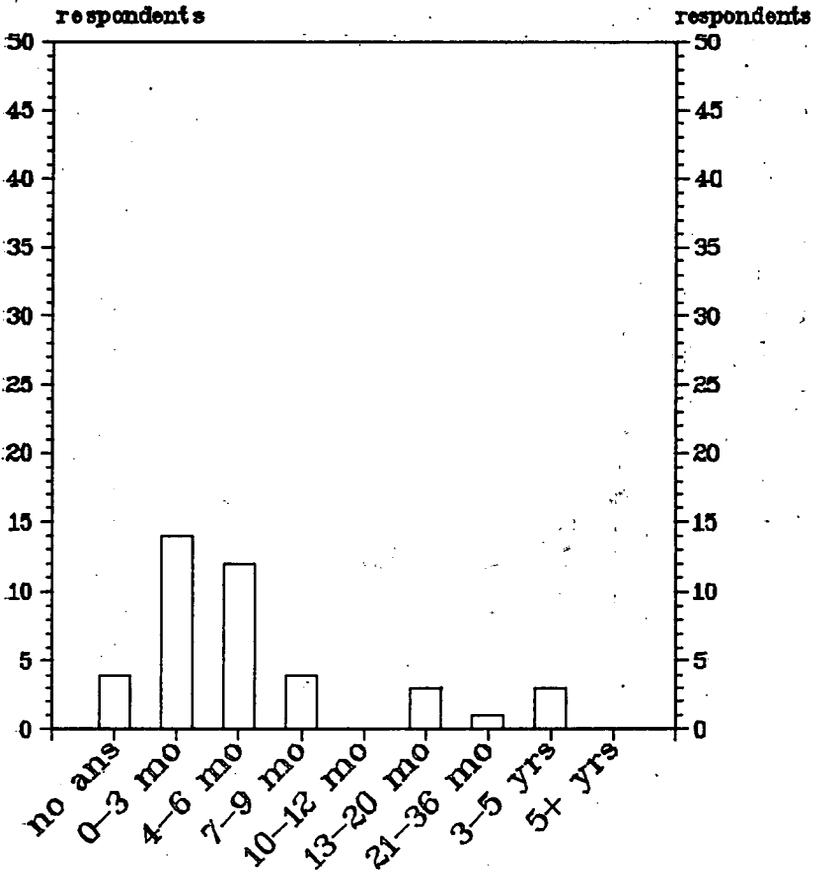
HOW LONG DID YOU WAIT FOR VISA?
 POST-HELSINKI ACCORD
 U.S.S.R.



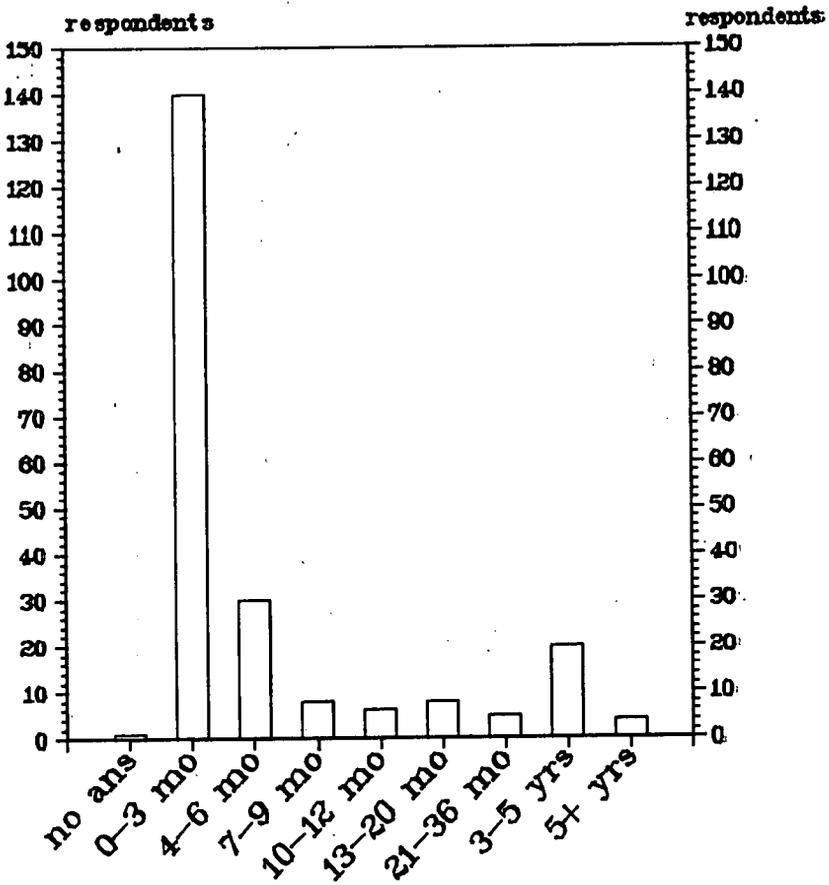
HOW LONG DID YOU WAIT FOR VISA? POST-HELSINKI ACCORD BALTICS



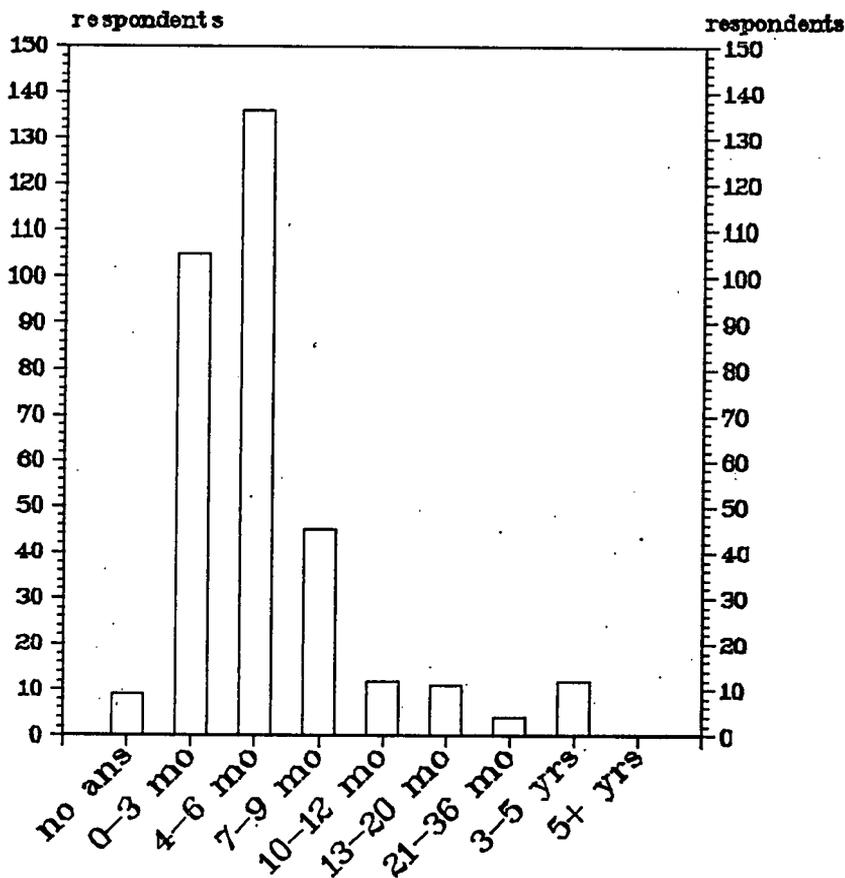
HOW LONG DID YOU WAIT FOR VISA?
 POST-HELSINKI ACCORD
 CAUCASUS



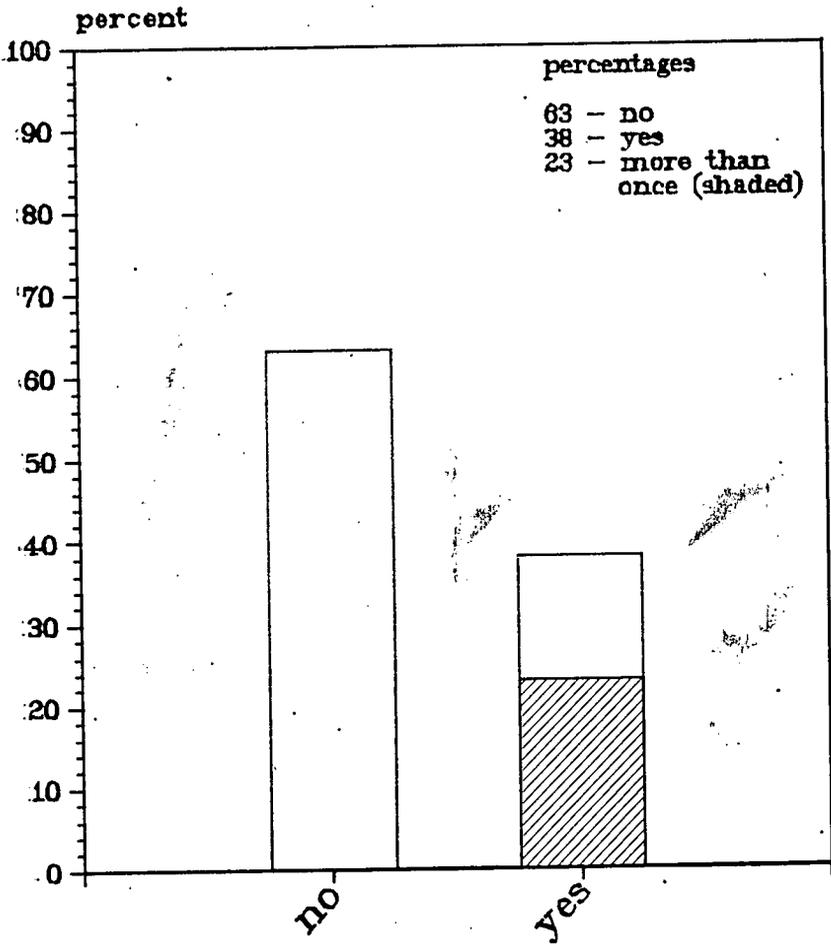
HOW LONG DID YOU WAIT FOR VISA?
 POST-HELSINKI ACCORD
 R.S.F.S.R.



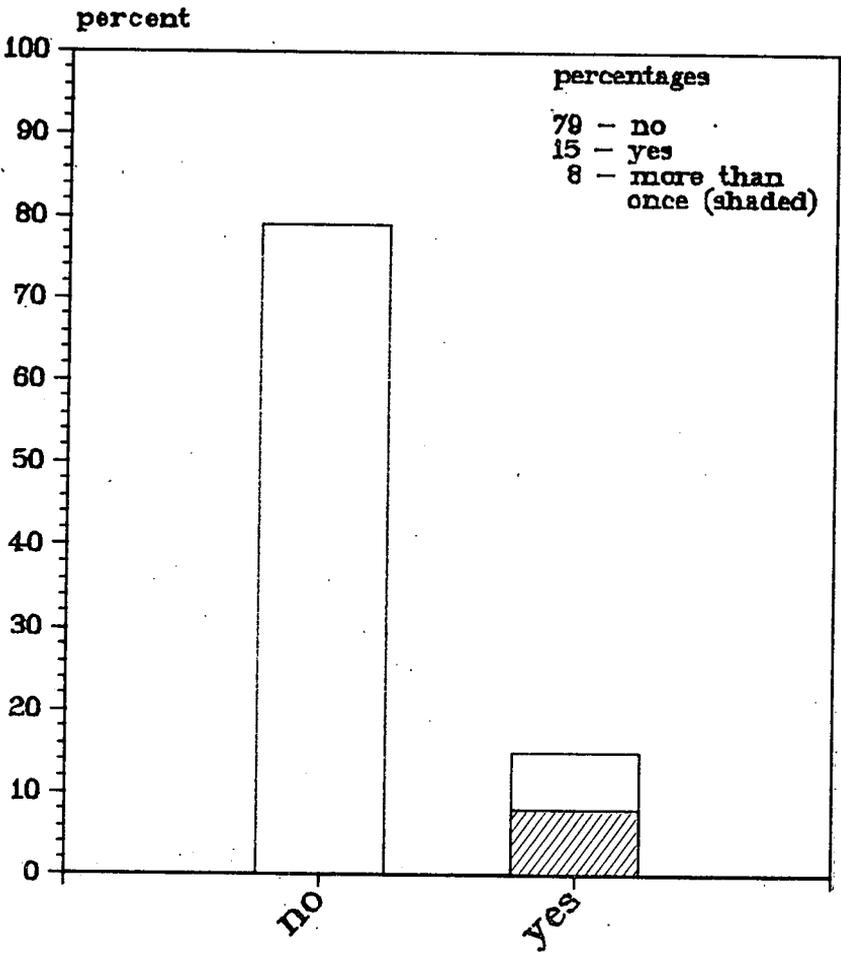
HOW LONG DID YOU WAIT FOR VISA?
POST-HELSINKI ACCORD
UKRAINIAN S.S.R.



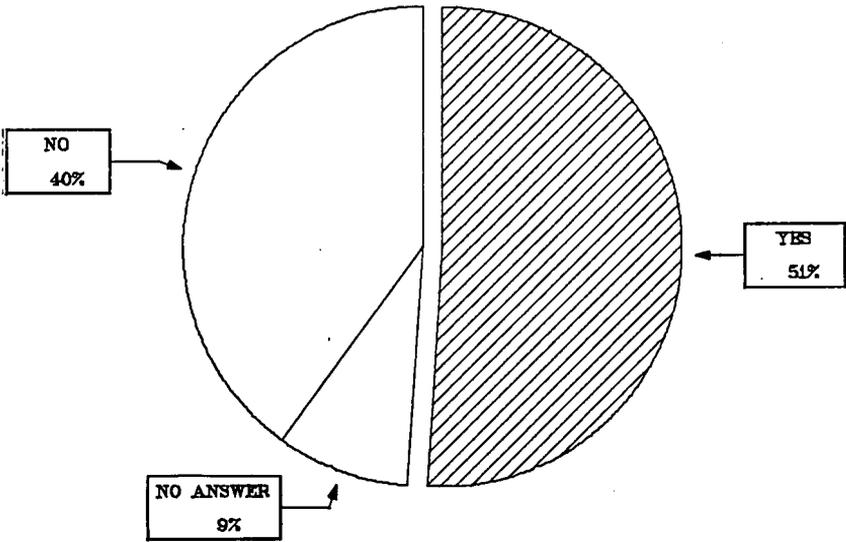
WERE YOU REFUSED AN EXIT VISA?
PRE-HELSINKI ACCORD
U.S.S.R.



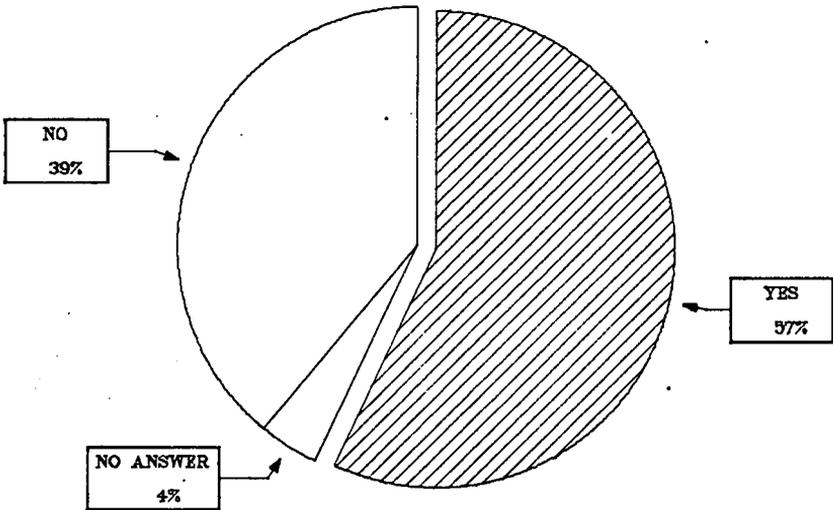
WERE YOU REFUSED AN EXIT VISA?
POST-HELSINKI ACCORD
U.S.S.R.



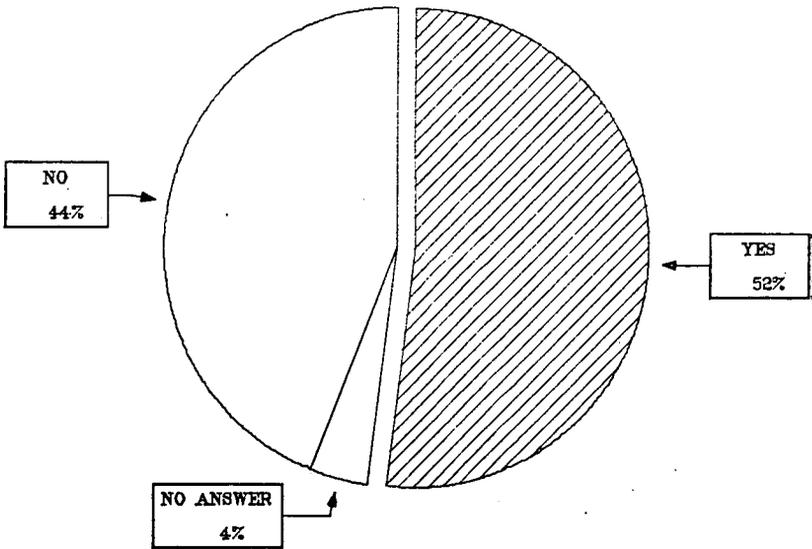
WERE YOU HARASSED AFTER APPLYING?
TOTAL U.S.S.R.
PRE-HELSINKI ACCORD



WERE YOU HARASSED AFTER APPLYING?
TOTAL U.S.S.R.
POST-HELSINKI ACCORD



WERE YOU HARASSED AFTER APPLYING?
TOTAL U.S.S.R. - NONPROFESSIONALS
POST-HELSINKI ACCORD



WERE YOU HARASSED AFTER APPLYING?
TOTAL U.S.S.R. - PROFESSIONALS
POST-HELSINKI ACCORD

