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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF
RELIGIOUS INTOLERANCE**

**Report of the Special Rapporteur on freedom of religion or belief, Asma
Jahangir**

Addendum

Summary of cases transmitted to Governments and replies received*

* The present document is being circulated in the languages of submission only as it greatly exceeds the page limitations currently imposed by the relevant General Assembly resolutions

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Introduction

1. This addendum to the report of the Special Rapporteur on freedom of religion or belief gives an account of communications transmitted by the Special Rapporteur between 1 January and 11 November 2004. It also contains the replies received from Governments to his communications, as well as observations of the Special Rapporteur where considered appropriate.
2. Owing to restrictions on the length of documents, the Special Rapporteur has been obliged to reduce details of communications sent and received. As a result, replies from Governments could not be published in their entirety.

Summary of cases transmitted and replies received

Armenia

Communications and replies received

3. On 27 October 2004, the Special Rapporteur transmitted a communication to the Government of Armenia in relation to the situation of five Jehovah's Witnesses who were reportedly sentenced to prison terms in October 2004 for refusing military service on grounds of conscience. According to the information received, between 7 and 14 October 2004, **Karen Hakopyan, Arsen Sarkisyan, Mher Mirpakhatyan and Artur Manukyan** were sentenced by a court in Armavit whereas **Hovhannes Bayatyan** was sentenced by the Yerevan Erebuni-Nubarashen Court. They all received the maximum sentence of two years of prison each under article 327, Part I, of the Criminal Code. They were reportedly held in Nubarashen prison. On 1 October 2004, **Asatur Badalyan**, another Jehovah's Witness, was reportedly sentenced on the same grounds to 1 ½ years' imprisonment by a court in Kotaik. Concerns have been expressed that the six prisoners, who were called up in May 2004, officially applied to do alternative civil service but were told that such an option did not exist.
4. By letter dated 3 December 2004, the Government of Armenia indicated that the law on alternative service had only entered into force on 1 July 2004 but that the persons referred to in the communication could now apply for alternative service and their prison sentences would then be cancelled.
5. The Government further stated that while looking into the matter a special mission comprised of the staff members of the Armenian Human Rights Defender's Office and the Public Observation Group of the Ministry of Justice investigated the conditions of detention of **Arsen Sargsyan, Mher Mirpakhatyan, Karen Hakobyan, Artur Manukyan, Hovhannes Bayatyan**, using a questionnaire survey.
6. The visiting group also met with **Asatur Badalyan** and other imprisoned Jehovah's Witnesses at the Kosh detention centre on 19 November 2004. According to the questionnaires filled out by the prisoners, all the above-mentioned persons believed that they were prisoners of conscience and that they were unfairly sentenced. However, nothing in their verdicts referred to their being sentenced because of their religious beliefs.

minorities, enjoy effective protection against discrimination and are able to enjoy their own culture, to practise and profess their own religion, and use their own language, in accordance with article 27 of the Covenant”.

Slovenia

Follow-up to previously transmitted communication

214. By letter dated 15 December 2003, the Government of Slovenia transmitted a response to a communication sent by the Special Rapporteur on 13 October 2003 regarding complaints concerning the new law on religious communities and the building of a mosque in Ljubljana.

215. Regarding the complaints and concerns expressed by the minority religious communities because the Office for Religious Communities had chosen Dr. Lovro Sturm as head of the expert team tasked with preparing an initial draft of a new law on religious communities, the Government informed the Special Rapporteur that, according to the statement of the governmental Office for Religious Communities, which is responsible for the law in question, the head of the expert team had been chosen in a procedure for awarding small public contracts, in compliance with the legislation of the Republic of Slovenia. The Institute for Human Rights Law, of which Dr. Sturm is the director, had submitted the lowest bid. In accordance with the Constitution and relevant international conventions, every person in Slovenia is guaranteed equal human rights and fundamental freedoms, irrespective of national origin, race, sex, language, religion, etc. The Government therefore expressed its belief that the decision as to whether a bid is appropriate or inappropriate may not be based on the religion of the bidder, since that would be inadmissible and discriminatory and would violate the Constitution as well as the relevant international instruments.

216. The Government indicated that the draft law on religious communities, which would be decided upon by the National Assembly, would ultimately be formulated by the Government which was not obliged to accept the initial draft as formulated by Dr. Sturm. After the draft law was formulated and submitted to the National Assembly, the Government would take the responsibility for its compliance with the Constitution and international conventions binding on the Republic of Slovenia (particularly for the respect for the constitutional principles of the separation of Church and State, the equality of religious communities and their freedom to pursue their activities). It was thus clear that Dr. Sturm would not be responsible for the draft law on religious communities, but only for formulating the legal arguments that would provide the basis of the draft law.

217. Regarding the complaints of the Islamic community, who believed their freedom of religion was curtailed, the Government responded that, in accordance with the provisions of the Constitution and the obligations arising from ratified international instruments, it recognizes the right of any religious community to act freely and supports their endeavours to acquire appropriate facilities for practicing and professing their beliefs.

218. The Government further indicated that article 7 of the Constitution stipulates that religious communities in the Republic of Slovenia enjoy equal rights and that they may pursue their activities freely. Article 14 of the Constitution stipulates that everyone is guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other conviction, material status, birth, education, social status or any other personal circumstance. The Constitution also specifies that religious and other beliefs may be freely professed in private and public life, and that no one is obliged to declare his/her religious or other beliefs. Parents have the right to provide their children with a religious and moral upbringing in accordance with their beliefs. The religious and moral guidance given to children must be appropriate to their age and maturity, and be consistent with their free conscience and religious and other beliefs or convictions (article 41 of the Constitution).

219. As regards the complaints about the construction of an Islamic centre or a mosque, the Office for Religious Communities of the Republic of Slovenia expressed its support for the right of the Islamic community to appropriate religious facilities in letters addressed to the Human Rights Ombudsman and to the Municipality of Ljubljana. The implementation of this right, however, depends on numerous factors. The basic factor, which falls within the jurisdiction of the local community, is the possibility of obtaining a building plot. The City Council of the Municipality of Ljubljana adopted the appropriate land-use planning document on 8 December 2003.

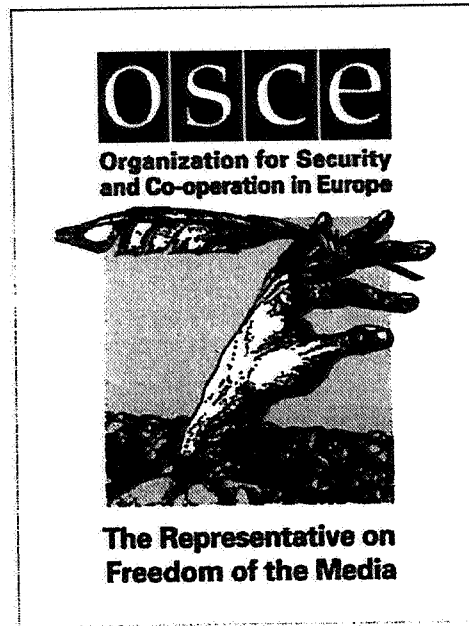
Sri Lanka

220. On 14 June 2004, the Special Rapporteur sent a communication to the Government of Sri Lanka regarding a draft "Bill on the Prohibition of Forcible Conversion", which was presented by Buddhist monks of the Jathika Hela Uramaya (JHU) party. The draft bill was allegedly presented to protect and foster Buddhism in Sri Lanka. While some organizations reportedly challenged the bill in the Supreme Court within the required period of seven days, it was feared that they might not obtain satisfaction given the recent trend taken by the Court in favour of Buddhism.

221. By letter dated 25 June 2004, the Government of Sri Lanka responded that members of Parliament of the JHU had presented a Private Members Bill on religious conversions, and that it was the prerogative of any member of Parliament to do so.

222. The Government also indicated that there had been several Private Members Bills seeking to incorporate organizations with the purpose of propagating a religion combined with administering social and economic assistance to the community. These bills had been successfully challenged in the Supreme Court in three instances. The facts of all three cases were similar. Each case related to the promotion of a particular faith as well as to the provision of education, job training and social welfare services. The purpose of incorporation was to have the power to raise money and engage in normal commercial activities. The petitioners who challenged the bills argued that if Parliament were to statutorily incorporate the organizations of a particular denomination and also vest in them the right to engage in economic activities, it could lead to conversions of persons to that religious denomination through allurement or subtle means. It was contended that that would be an infringement of the freedom of thought, conscience and religion guaranteed

27 APR. 2005



**LIBEL AND INSULT LAWS:
A MATRIX ON WHERE WE STAND AND
WHAT WE WOULD LIKE TO ACHIEVE**

A comprehensive database on criminal and civil defamation provisions and court practices in
the OSCE region

Vienna 2005

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We would also like to extend our gratitude to the following people, organisations and OSCE field operations for their invaluable contributions to this project. It is due to their efforts that this comprehensive database on criminal and civil defamation and insult provisions and court practices in the OSCE area has been compiled and published.

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OSCE Mission to Georgia

OSCE Mission to Kosovo

OSCE Mission to Moldova

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OSCE Office in Baku

OSCE Office in Minsk

OSCE Office in Yerevan

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OSCE Project Co-ordinator in Ukraine

OSCE Spillover Monitor Mission to Skopje

Reporters sans frontières

the Media Division of the Directorate General of Human Rights of the Council of Europe whose publication *Aperçu des législations nationales en matière de diffamation et d'injure* (Strasbourg, le 12 décembre 2003) has been used for this survey.

Remarks

In this survey, we use the terms *defamation, libel and insult*. These terms are most commonly referred to in the OSCE participating States' legislation to describe true and false statements of facts and opinions which harm the reputation of the other person and/or are insulting or offensive. Other terms used in participating States' legislation include *slander, calumny, insult of honour and dignity, smear, vilification, contempt, impairment of dignity, personal injury*, etc. which, we assume, are encompassed by defamation, libel and insult.

The period covered by this survey is from 1 January 2002 until 30 June 2004, unless otherwise specified.

The country reports for this survey are based on data that have been received from the governments of the OSCE participating States and from other sources, including OSCE field operations and international and local media NGOs. These sources have provided information to the best of their knowledge; however, some data are incomplete due to the scarcity of court statistics.

In each country report, we have indicated sources which provided the information. We have obtained information on some OSCE participating States' criminal and civil defamation provisions and court practices from two different sources. In such cases, both reports have been published.

Disclaimer

The data for this survey have been received from the governments of the OSCE participating States and from other sources, including OSCE field operations and international and local media NGOs. The Office of the OSCE Representative on Freedom of the Media was unable to verify all the data. Therefore, we cannot guarantee the accuracy of the facts contained in this survey. We reserve the right to correct or complete some of the data as necessary.

Slovenia

This report is based on the data contained in the publication *Aperçu des législations nationales en matière de diffamation et d'injure* (Strasbourg, le 12 décembre 2003). This publication was prepared by the Media Division of the Directorate General of Human Rights of the Council of Europe.

CRIMINAL CODE: provisions

1. Are defamation, libel or insult criminal offences?

Yes

2. Are there specific provisions protecting government officials and/or public figures?

Yes

3. Are there specific provisions protecting state, state symbols and government institutions?

Yes

4. Changes made in criminal defamation legislation during the past ten years

No information available

5. Amendments to criminal defamation, libel and insult provisions currently under discussion. Plans to amend criminal provisions

No information available

6. Maximum prison term for defamation, libel and insult envisaged in the Criminal Code

One year

7. Maximum fine for defamation, libel and insult envisaged in the Criminal Code

No information available

8. Administrative consequences of a conviction

No information available

CRIMINAL CODE: court practices

9. Number of persons accused of defamation, libel and insult

No information available

10. Number of persons convicted, including those sentenced to imprisonment, fines, and probation, and those who received suspended sentences

No information available

11. Total number of people who had been (since 1 January 2002) and were (as of 30 June 2004) incarcerated for defamation, libel and insult

No information available

12. Average and maximum lengths of prison sentences

No information available

13. Average and maximum amounts of fines

No information available

CIVIL CODE: provisions

14. Are defamation, libel and insult civil offences?

No information available

15. Do government officials enjoy more protection than other individuals?

No information available

16. Do public figures or celebrities enjoy more protection than other individuals?

No information available

17. Are there specific provisions protecting state, state symbols and government institutions?

No information available

18. Changes occurred in civil libel legislation within the past ten years

No information available

19. Amendments to civil defamation, libel and insult provisions currently under discussion; plans to amend criminal provisions

No information available

20. Maximum fines/damages

No information available

21. Other penalties

No information available

CIVIL CODE: court practices

22. Number of cases registered within the reporting period

No information available

23. Average and maximum amount of fines/damages paid

No information available

24. Other court practices

No information available