Denver Journal of International Law & Policy

Volume 21
Number 2 *Winter*

Article 3

January 1993

The Movement of Persons: The Practice of States in Central and Eastern Europe since the 1989 Vienna CSCE

Daniel C. Turack

The Movement of Persons: The Practice of States in Central and Eastern Europe since the 1989 Vienna CSCE

Keywords
States, Human Rights Law, Water Law

The Movement of Persons: The Practice of States in Central and Eastern Europe Since the 1989 Vienna CSCE

DANIEL C. TURACK*

I. INTRODUCTION

The February 7, 1992 Maastricht Treaty on European Union stipulates that it will enter into force on January 1, 1993 if all twelve member-states ratify the Treaty by the end of 1992. In June 1992, Denmark rejected the Treaty in a popular vote, while French voters approved it in September 1992. The Netherlands, Spain, Belgium, and Portugal are in the process of ratification by their respective parliaments. Discussions are still underway in the political structures of the remaining seven members. The Maastricht Treaty envisages a common immigration policy that will create important changes involving freedom of movement, a topic beyond the range of this article. However, all of the present European Economic Community members are also members of the Conference on Security and Co-operation in Europe (CSCE), and a common immigration policy for the twelve members of the projected European Union will affect the free movement of the citizenry of the other CSCE European members.

This article examines the CSCE commitments and especially the state practices of the Eastern European members and the Soviet Union before its disintegration.

II. THE CSCE PROCESS

Pursuant to the process established under the 1975 Helsinki Final Act,[1] the Conference on Security and Co-operation in Europe (CSCE) ended its Vienna follow-up meeting on January 19, 1989 with the adoption of a Concluding Document.[2] Both the Vienna Concluding Document and the earlier Madrid Concluding Document,[3] adopted at the Madrid

---

* Capital University Law School

1. All 33 of the European states, excluding Albania, plus Canada and the United States signed The Helsinki Final Act on August 1, 1975, *reprinted in* 14 I.L.M. 1293 (1975). *See generally* J. MARESCA, TO HELSINKI: THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE, 1973-1975 (1987); HUMAN RIGHTS, INTERNATIONAL LAW AND THE HELSINKI ACCORD (Thomas Buergenthal ed., 1977).

2. The Vienna Concluding Document, *reprinted in* 10 HUM. RTS. L.J. 270 (1989). On the work of the Vienna Conference, *see* Hannes Tretter, *Human Rights in The Concluding Document of the Vienna Follow-up meeting of the Conference on Security and co-operation in Europe of January 15, 1989*, 10 HUM. RTS. L.J. 259 (1989).

3. The Madrid Concluding Document, *reprinted in* 22 I.L.M. 1398 (1983).

follow-up meeting[4] in 1983, contain language that has strengthened and added to the human rights commitments stated in the Helsinki Final Act, especially with respect to human contacts. In the so-called "Basket III," entitled Cooperation in Humanitarian and Other Fields, the Participating States undertake to implement and respect the principle "that everyone shall be free to leave any country, including his own, and to return to his country" in fulfillment of the Helsinki Final Act, and the Madrid and Vienna Concluding Documents. Today, the CSCE is a key vehicle at the forefront of shaping post-Cold War Europe.

The Vienna Concluding Document contains thirty-three paragraphs[5] concerning human contacts and freedom of movement. There is a positive commitment to find solutions to existing backlogs of human contacts cases within six months and specific time-frames for processing applications pertaining to travel abroad, family meetings, family reunification, and binational marriage. Exceptions to freedom of movement, such as national security, are to be treated as "exceptions" in practice, and not as the rule. All State laws and regulations concerning movement by persons within and between States are to be published and accessible. Secrecy issues concerning national security are not to be applied arbitrarily and are to be applied within strictly warranted time limits. Finally, individuals denied their travel rights may receive information concerning any administrative decisions and notice of judicial remedies against such decisions.

Political events during 1989 and 1990 brought a dramatic transformation in Eastern Europe with the collapse of Soviet Communism and a redrawing of the map of Europe. Geopolitical changes occurred in the autumn of 1989 and in 1990 that saw the fall of the Berlin Wall, the death knell of the communist regime in the German Democratic Republic, the disappearance of that State on October 3, 1990, and the "velvet revolution" in Czechoslovakia. The CSCE process continued with the Copenhagen Meeting on the Human Dimension during June 5-29, 1990. For the first time, Albania attended as an observer[6] when the thirty-five CSCE Participating States met.

In the preamble of the Document of the Copenhagen Meeting,[7] the

---

4. On the Madrid Follow-Up Conference, *see generally, Essays on Human Rights in the Helsinki Process* (A. Bloed & P. Van Dijk, eds.,1985); J. SIZOO & R. TH. JURRJENS, CSCE DECISION-MAKING: THE MADRID EXPERIENCE (1984).

5. The Vienna Concluding Document, *supra* note 2, at 282-286.

6. Observer status was requested by Albania, Estonia, Latvia and Lithuania but only Albania was accorded observer status. *See* Erika Schlager, *The Procedural Framework of the CSCE: From the Helsinki Consultations to the Paris Charter, 1972-1990*, 12 HUM. RTS. L.J. 221, 226-228 (1991).

7. The Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, *reprinted in* 29 I.L.M. 1305 (1990); 11 HUM. RTS. L.J. 232 (1990); 8 NETHERLANDS Q. HUM. RTS. 302 (1990). For a discussion on this meeting see Thomas Buergenthal, *The Copenhagen CSCE Meeting: A New Public Order For Europe*, 11 HUM. RTS. L.J. 217(1990); Bloed, *Successful Meeting of the Conference on the Human Dimension of*

"participating states welcome with great satisfaction the fundamental political changes that have occurred in Europe. . . ." They recognize that pluralistic democracy and the rule of law are essential for ensuring respect for all human rights and fundamental freedoms. . . ." The Participating States reaffirmed that "they will respect the right of everyone to leave any country, including his own, and to return to his country. . . ."[8] So dramatic were the political events in Europe during 1989 and 1990 and the democratization of Eastern Europe that the heads of the Participating States decided to convene a second summit[9] of the CSCE process in Paris during November 19-21, 1990. It was not a meeting at the highest level envisaged by the Helsinki Final Act or in the previous CSCE decision. The fruit of the Paris Summit was the signing of the Charter of Paris for a New Europe.[10]

The preamble of the Charter acknowledges that the assemblage was "at a time of profound change and historic expectations." It recognizes that "the ideas of the Helsinki Final Act have opened a new area of democracy, peace, and unity in Europe. Ours is a time for fulfilling the hopes and expectations our peoples have cherished for decades: steadfast commitment to democracy based on human rights and fundamental freedoms. . . ."[11]

Under the sub-heading of "Human Rights, Democracy and Rule of Law," the signatories "affirm without discrimination, every individual has the right to . . . freedom of movement. . . ."[12] In the section entitled "Guidelines for the Future," under the sub-heading "Human Dimensions," the Charter reiterates that "[i]n accordance with our CSCE commitments, we stress that freedom of movement and contacts among our citizens . . . are crucial for the maintenance and development of free societies and flourishing cultures. We welcome increased tourism and visits among our countries."[13]

Both under the section of the Charter creating "New Structures and institutions of the CSCE Process" and in the Supplementary Document

---

CSCE, 8 NETHERLANDS Q. HUM. RTS. 235 (1990).

8. *See generally* HURST HANNUM, THE RIGHT TO LEAVE AND RETURN IN INTERNATIONAL LAW AND PRACTICE (1987).

9. The Heads of State or Governments of the 35 Participating States attended and signed the Final Act at Helsinki in 1975. The unification of the two German States was based on the Treaty on the Unification of Germany, August 31, 1990, which entered into force on October 3, 1990, *reprinted in* 30 I.L.M. 457(1991); the Treaty on the Final Settlement with Respect to Germany signed on Sept. 12, 1990, *reprinted in* 29 I.L.M. 1186 (1990) and entered into force on March 4, 1991, with the ratification by the last signatory, the Soviet Union.

10. The Charter For a New Europe And Supplementary Document, *reprinted in* 30 I.L.M. 193 (1991). For a comment on the Charter, *see* Stephen Roth, *The CSCE "Charter of Paris For A New Europe": A New Chapter In the Helsinki Process*, 11 HUM. RTS. L.J. 373 (1990).

11. 30 I.L.M. 193 (1991).

12. *Id.* at 193-194.

13. *Id.* at 199-200.

to the Charter, the signatories undertook to have follow-up meetings every two years, as a rule, to take stock of developments, to review implementation of the commitments, and to consider further steps in the CSCE process.[14]

The Moscow meeting of the Conference on the Human Dimension of the CSCE took place between September 10 and October 4, 1991, with all thirty-eight States participating. Two innovations appear in the Concluding Document. One is the statement that "[t]he States taking part emphasize that questions of human rights, basic freedoms, democracy and the rule of law are a matter of international concern." Innovative in this statement is that "democracy" and "rule of law" are mentioned in juxtaposition to "human rights" and "basic freedoms." The second innovative statement is the observation that "the obligations adopted in matters concerning the human dimension in the CSCE are not exclusively an internal affair of the State concerned."[15] Hence, a CSCE State that infringes upon human rights can expect other CSCE States to get involved in what formerly had been claimed as a matter of internal affairs.

III. STATE PRACTICE

Only the highlights of state practice involving international travel will be addressed here. The German Democratic Republic (G.D.R.) ceased to exist as an independent State on October 3, 1990 through unification[16] with the Federal Republic of Germany. As a result, no attempt will be made in this article to recount the historic events that impacted freedom of movement in the G.D.R.[17]

---

14. *Id.* at 207. The next Follow-up CSCE Conference was to open in Helsinki on March 24, 1992.

15. GERMAN TRIBUNE, Oct. 20, 1991, at 1.

16. The Treaty on the Final Settlement with Respect to Germany, Sept. 12, 1990, signed by the Federal Republic of Germany, the German Democratic Republic, France, the Soviet Union, the United States and the United Kingdom, *reprinted in* 29 I.L.M. 1186 (1990).

For the legal and historical processes involved in German Reunification, see Albrecht Randelzhofer, *German Unification: Constitutional And International Implications*, 13 MICH. J. INT'L L. 122 (1991); Ryszaro W. Piotrowicz, *The Arithmetic of German Unification: Three Into One Does Go*, 40 INT'L & COMP. L.Q. 635 (1991); Gregory V.S. McCurdy, *German Reunification: Historical and Legal Roots of Germany's Rapid Progress Towards Unity*, 22 N.Y.U. J. INT'L L. & POL. 253 (1990); Frans G. Von Der Dunk & Peter H. Kooijmans, *The Unification of Germany and International Law*, 12 MICH. J. INT'L L. 510 (1991); Jochen Frowein, *The Reunification of Germany*, 86 AM. U. J. INT'L L. & POL'Y 152 (1992); Wilms, *The Legal Status of Berlin after the Fall of the Wall and German Reunification*, 51 *Zeitschrift fur Auslandisches Offentliches Recht und Volkerrecht* 470 (1991); Jochen Frowein, *German Revisited, id.*, at 333; Hailbronner, *Legal Aspects of the Unification of the Two German States*, 2 EUR. J. INT'L L. 18 (1991); Kearley, *German Division and Reunification, 1944-1990: An Overview via the Documents*, 84 L. LIBR. J. 1 (1992).

17. On September 10, 1989, the Government of Hungary, defying its 1967 agreement to prevent G.D.R. citizens from traveling to the West without authorization, allowed East Germans to head West. William Doerner, *Freedom Train; As Thousands of its Citizens Flee to West, East Germany Celebrates a Bitter 40th Birthday*, TIME, Oct. 16, 1989, at 38.

The democratization process in the formerly communist Eastern European States and the former Soviet Union has caused the nationals of these States to seek asylum[18] in other States. This has, in turn, spawned new problems for the potential countries of asylum. These countries have created legal barriers to prevent "economic refugees" from entering their territories. Issues pertaining to asylum will not be addressed in this article.

A. *Albania*

Albania was the most restrictive European communist country. The ordinary Albanian citizen was prevented from travel outside the country from the time it became a Communist State in 1944. It finally began to extricate itself from long isolation on May 8, 1990 when it announced a series of new laws as part of a liberalization plan, including a law stating that any Albanian has the right to a passport for foreign travel.[19]

In early July 1990, thousands of Albanians sought asylum in nine embassies in Tirana, Albania's capital.[20] Within a week the United Nations worked out an agreement for the evacuation of more than 6,000 asylees to leave the country.[21] By early November, more than 25,000 Albanians had left the country legally, essentially for foreign travel but realistically with-

---

The mass exodus gathered momentum and led to the East German Government decision to open the Berlin Wall on Nov. 9th, but this dramatic gesture was too late to stem the desire of all Germans in both countries to unite. On the exercise of the right to travel by G.D.R. citizens, see T. Magstadt, *Ethics and Emigration: The East German Exodus*, 1989 (Carnegie Council on Ethics and International Affairs, 1990); John A. Zohlman IV, *The German Question of Reunification: An Historical and Legal Analysis of the Division of Germany and the 1989 Reform Movement in the German Democratic Republic*, 8 DICK. J. INT'L L. 291, 307-311 (1990).

18. *See As Ethnic Albanians Join the Exodus Greeks are Appealing for Help*, N.Y. TIMES, Jan. 22, 1991, at A6; Celestine Bohlen, *Europeans Confer on Emigration Limits*, N.Y. TIMES, Jan. 27, 1991, Sec. 1, at 9; Paul Lewis, *As Soviet Borders Open, the West Braces for an Economic Exodus*, N.Y. TIMES, Feb. 10, 1991, at D4; Kate Holder & Rebecca Brown, *Refugees From East Unsettle West*, CHRISTIAN SCIENCE MONITOR, Mar. 28, 1991, at 18; *New, Stricter Asylum Ordinance takes effect July 1, The Week in Germany*, July 5, 1991, at 6; Alan Riding, France Unveils Strict New Rules on Immigration, N.Y. TIMES, July 11, 1991, at A5; *British Information Service, "Political Asylum,"* 21 SURV. OF CURRENT AFF. 247 (July 1991).

19. *See* David Binder, *Albania Dropping Curbs On Worship And Ban On Travel*, N.Y. TIMES, May 10, 1990, at A1.

20. N.Y. TIMES, July 4, 1990, at A7 and July 5, 1990, at A10. The European Community called on the Albanian Government to allow those seeking asylum safe passage out of the country; N.Y. TIMES, July 6, 1990, at A48; N.Y. TIMES, July 7, 1990, at A1. The number of Albanians crowded into the embassies was now estimated at 3,000-5,000, N.Y. TIMES, July 8, 1990, at A5. The first group of Albanians allowed to leave the country were flown to Czechoslovakia, *see* N.Y. TIMES, July 10, 1990, at A1; Burton Bollag, *51 Albanian Refugees Recall Repression and Hope of Asylum*, N.Y. TIMES, July 12, 1990, at A12.

21. *See* Paul Lewis, *U.N. Said to Be Near Deal For Exit of 6,000 Albanians*, N.Y. TIMES, July 11, 1990, at A8; Clyde Haberman, *To Albanians, 'Ciao Italia!' Means Haven*, N.Y. TIMES, July 14, 1990, at A1.

out any intention of returning.[22] Before the year's end, hundreds of ethnic Greek-Albanians illegally crossed into Greece seeking political refuge.[23] The first two days of the new year only saw an increase in the number of Albanians pouring into Greece along the 100-mile common border.[24] As a result, the Greek Prime Minister had to declare a state of emergency in the border area.[25]

Meanwhile, Yugoslavia, which had given asylum to more than 1,000 Albanians in 1990, decided to discontinue its policy and forcibly handed over asylum seekers to Albanian authorities to face imprisonment for illegally leaving their country.[26] With Yugoslavia and Greece being less than receptive to potential Albanian illegal emigres, attempts were made to leave illegally to Italy in February 1991.[27]

A new wave of mass flight to Italy, Greece, and Yugoslavia began on March 4, 1991. By the week's end, an estimated 20,000 Albanians had reached Italy.[28] In an attempt to stem the tide of illegal emigration, the President of Albania imposed martial law in the country's ports[29] and introduced democratic political changes. Subsequently, Italy pledged about

---

22. *See* David Binder, *In Albania, Communist Stronghold, The Grip Appears to Be Loosening*, N.Y. TIMES, Nov. 5, 1990, at A8.

23. *See* N.Y. TIMES, Jan. 1, 1991, at 4.

24. *See Thousands of Albanians Flee to Greece*, N.Y. TIMES, Jan. 2, 1991, at A3.

25. *See* Paul Anastasi, *Athens Is Alarmed Over Refugees From Albania*, N.Y. TIMES, Jan. 3, 1991, at A3; Paul Anastasi, *Albanians Still Stream Into Greece Though Athens Asks Them to Stop*, N.Y. TIMES, Jan. 4, 1991, at A3; Paul Anastasi, *Albanians in Greece Vow No Return*, N.Y. TIMES, Jan. 5, 1991, at A3. The Greek Prime Minister attempted to secure an amnesty from the Albanian Government to the refugees who would return to ease the problem but Albania initially refused, *see* Paul Anastasi, *Greek-Albanian Talks Stall Over Ethnic-Minority Issue*, N.Y. TIMES, Jan. 14, 1991, at A5. The next day an agreement was announced for the amnesty as well as an Albanian commitment to allow its ethnic Greeks to visit Greece. Many of the ethnic Greeks then used that agreement to leave the country permanently, as they distrusted their government, see Paul Anastasi, *Athens Chief Is Cheered by Greeks in Albania*, N.Y. TIMES, Jan. 15, 1991, at A5; N.Y. TIMES, Jan. 22, 1991, at A6.

26. *See* Chuck Sudetic, *Yugoslavia Returns 368 Escapees To Albania*, N.Y. TIMES, Feb. 7, 1991, at A11.

27. *See Albanians' Efforts to Flee Sets Off Clash*, N.Y. TIMES, Feb. 10, 1991 at A3.

28. *See* David Binder, *Thousands of Albanians Flee Aboard Ship To Italy*, N.Y. TIMES, Mar. 7, 1991, at A5; David Binder, *Albania Combating Exodus, Clamps Down on a Port*, N.Y. TIMES, Mar. 8, 1991, at A2; Brenda Fowler, *Albanian Refugees Taken to Shelters*, N.Y. TIMES, Mar. 9, 1991, at A3.

29. David Binder, *4 Albanians Die as Police Seize Refugee Ship*, N.Y. TIMES, Mar. 11, 1991, at A5. Some 1,500 Albanians were convinced to return when Italy received Albanian assurance that the returnees would not be persecuted. *Id.* The Albanian Government sought to change its image by becoming more democratic. Moves such as restoration of diplomatic relations with the United States after a 52-year gap and the call for multiparty elections at the end of March were to give Albanians more of an incentive to remain home. *See* David Binder, *U.S. and Albania to Restore Full Links*, N.Y. TIMES, Mar. 13, 1991, at A3. *See also*, *Albania Releases Prisoners But the Dispute Continues*, N.Y. TIMES, Mar. 16, 1991, at A3; David Binder, *Albania Turns In the Throes Of Transition*, N.Y. TIMES; Mar. 25, 1991, at A10; David Binder, *2 Freed Albanian Prisoners Tell of Others Left Behind*, N.Y. TIMES, Mar. 26, 1991, at A6.

$50 million in emergency aid to Albania to help cut the number of Albanians fleeing to its shores.[30]

However, in August 1991, another wave of over 18,000 desperate Albanians landed in Bari, Italy seeking refuge. Initially, Italy was prepared to allow about 1,000 Albanians to stay if they qualified for political asylum, while the others were forced to return to their homeland. Ultimately, even those given temporary sanctuary were deported.[31]

Other changes in Albania allowed most of the Albanian Jewish community to emigrate to Israel.[32] In addition, Albania was accepted into CSCE membership on June 19, 1991.

B. *Bulgaria*

Bulgarian repression of its Muslim minority of Turkish descent began in its assimilation campaign during 1984 and accelerated in May 1989, when the government's intimidation and religious repression forced an exodus of Muslims into Turkey.[33] By the end of June, some 70,000 ethnic Turks were deported from Bulgaria into Turkey.[34] Subsequently, the ethnic Turks were no longer expelled but for the most part were encouraged to leave and were issued passports valid only for travel to Turkey. The Turkish Government indicated a willingness to accept all of the estimated 1.5 million Bulgarian Turks.[35] On August 21, after receiving

---

30. *See Italy Pledges $50 Million in Aid for Albania*, N.Y. TIMES, June 14, 1991, at A10. Thereafter, Albanian asylum seekers were returned to their homeland. *See* N.Y. TIMES, June 17, 1991, at A6.

31. *See* Clyde Haberman, *Italy Moves to Stern Wave of Albanians*, N.Y. TIMES, Aug. 9, 1991, at A3; Alan Cowell, *Italy Starts to Turn Back Albanian Wave*, N.Y. TIMES, Aug. 10, 1991, at A3; Alan Cowell, *Italy's Handling of Albanian Refugees Is Drawing Criticism*; N.Y. TIMES, Aug. 12, 1991, at A5; *For Many Albanians, Freedom Means a Shot at Leaving Forever*, N.Y. TIMES, Aug. 18, 1991, at D6.

The Italian Government announced that it would provide emergency food and economic aid to help feed the Albanian population and rejuvenate Albanian industry; *Albanians Plead for Food*, THE TORONTO STAR, Aug. 13, 1991, at A10; Andrew Mitrovica, *Why Albanians are Fleeing Land They Love*, THE TORONTO STAR, Aug. 14, 1991, at A21; *Ferryboat with Italian Relief Arrives in an Albanian Port*, N.Y. TIMES, Sept. 19, 1991, at A13.

32. *See* Wendy Kamm, *Joyful Jews From 'Another Planet' Called Albania*, N.Y. TIMES, April 11, 1991, at A4.

33. *See* Clyde Haberman, *Bulgaria Forces Turkish Exodus of Thousands*, N.Y. TIMES, June 22, 1989, at A1. At an earlier date, the U.S. Congress was aware of the oppression of the Turkish minority in Bulgaria. *See Implementation of the Helsinki Accords, Part I: National Minorities In Eastern Europe, The Turkish Minority in Bulgaria, Hearing before the Commission on Security and Cooperation in Europe*, 100th Cong. 1st Sess. (1987). A full account of the Bulgarian repression is found in K.H. KARPAT, THE TURKS OF BULGARIA (1991).

34. *See* Sam Cohen, *Turkey Starts Diplomatic Offensive*, CHRISTIAN SCIENCE MONITOR, June 28, 1989, at 3.

35. *See* Ted Zang, Jr., *Bulgaria's Persecution of the Turks*, CHRISTIAN SCIENCE MONITOR, July 24, 1989, at 18; Clyde Haberman, *Flow of Turks Leaving Bulgaria Swells to Hundreds of Thousands*, N.Y. TIMES, Aug. 15, 1989, at A1. Those of draft age and tobacco growers were not allowed to leave. Currency restrictions and the amount of property that could

about 310,000 Bulgarian Turks, Turkey announced a reversal of its policy and refused to admit any more Bulgarians without a Turkish visa. Previously, Turkey had waived its visa requirement, and the Bulgarian Government insisted that it was not expelling anyone since those leaving were issued three-month tourist visas.[36]

On September 1, 1989, a new Bulgarian passport law came into force that enabled Bulgarian citizens the right to obtain a passport valid for five years and granted amnesty to those who left the country illegally, though an exit visa was required.[37] On April 6, 1990, Yugoslavia imposed a new entry fee on all Eastern Europeans who sought entry for reasons other than business or package tours, thus requiring $200 worth of Yugoslav dinars in any hard currency. The Bucharest Government immediately retaliated with its own $200 currency purchase requirement for non-official Yugoslav travelers.[38]

An amendment to the passport law on January 9, 1991 provided that exit visas were no longer required for Bulgarians wishing to visit 'non-socialist' countries. No reference was made concerning whether those who left without a visa after September 1, 1989 or who overstayed their visa after that date were granted amnesty from the fines associated with those travel offenses.[39] On January 22, 1991, President Bush announced that he received the necessary assurance from Bulgaria regarding its emigration policy and waived the Jackson-Vanik Amendment.[40]

C. *Czechoslovakia*

After East Germany opened its borders to permit G.D.R. citizens to travel freely to the West, Czechoslovakia announced on November 14, 1989 that it would no longer require exit visas at the end of the year[41] for

---

be taken out of Bulgaria meant that they arrived in Turkey almost destitute.

36. *See* Clyde Haberman, *Turkey Closing Borders to Refugees From Bulgaria*, N.Y. TIMES, Aug. 22, 1989,at A9; Sam Cohen, *Border Closing Stirs Criticism*, CHRISTIAN SCIENCE MONITOR, Aug. 29, 1989, at 4; Clyde Haberman, *Bulgarian Turks: Finding Disillusion with Exodus*, N.Y. TIMES, Sept. 19, 1989, at A12. By mid-September, approximately 10,000 of those who left returned to Bulgaria due to lack of housing and/or employment in Turkey.

37. *See Questions and Answers - An Occasional Series of Country Reports: Bulgaria: The Impact of Reform*; 3 INT'L J. REFUGEE L. 288, 296 (1991) [hereinafter *Questions and Answers*].

38. *See* David Binder, *Waves of Emigration Are Washing Over Europe*, N.Y. TIMES, June 3, 1990, at A10.

39. *Questions and Answers, supra* note 37, at 297.

40. 27 WKLY. COMP. PRES. DOC. 841 (July 1, 1991). A further extension was announced on June 3, 1991; *see* Thomas L. Friedman, *Bush Clears Soviet Trade and Weighs Role in London Talks*, N.Y. TIMES, June 4, 1991, at A1. On April 22, 1991, the United States and Bulgaria signed an Agreement on Trade Relations that provided for nondiscriminatory tariff treatment. The Agreement went into operation by Proclamation 6307 on June 24, 1991. 27 WKLY. COMP. PRES. DOC. 840 (July 1, 1991).

41. *See* R.W. Apple Jr., *Prague Loosens Restrictions on Travel*, N.Y. TIMES, Nov. 15, 1989, at A13. Two years earlier, the Czechoslovakian Government relaxed hard currency restrictions to allow its citizens to keep foreign currency in bank accounts earmarked for

its citizens to travel to the West. At the end of the month, the Government announced that it would begin the immediate removal of fortifications along its 240 mile border with Austria and remove virtually all restrictions on travel to the West. Consequently, the only obstacle to travel was the inability to convert sufficient currency into Western money.[42] In addition, the passport application procedure was simplified.

At the beginning of January 1990, a new law was adopted eliminating all emigration restrictions of the previous regime. On February 20, 1990, President Bush, satisfied with Czechoslovakia's emigration policies, waived the Jackson-Vanik Amendment to the Trade Act of 1974.[43] In July, Czechoslovakia and the Federal Republic of Germany abolished visa and currency exchange requirements between their countries.[44] However, at the end of October 1990, thousands of Romanians, Bulgarians, and other refugees became stranded in Czechoslovakia when Western governments stopped accepting them as refugees due to the liberalization of their countries' governments.[45]

The United States eventually granted temporary most-favored-nation trading status to Czechoslovakia in November 1990. This status became permanent on December 4, 1991.[46]

During 1991, points along the German-Czech border were used frequently to bring illegal immigrants to the West.[47]

D. *Hungary*

On March 14, 1989, Hungary became the first East Bloc country to

---

foreign travel and the funds could be withdrawn without special application. Only a few days earlier more than 8,000 Czechoslovaks were allowed to travel to the Vatican for the canonization of Agnes Premyslide. Since Czechoslovaks were able to obtain visas to the West since 1988, the new gesture may have been an attempt by the leadership to remain in power.

42. *See* Henry Kamm, *Prague To Scrap Its Fortifiations on Austria Border*, N.Y. TIMES, Dec. 1, 1989, at A1. Just after the new year, the Czechoslovakian Government required Western visitors to exchange a minimum of $15 a day at artificially high rates.

43. Exec. Order 12,702, *reprinted in* 26 WEEKLY COMP PRES. DOC. 276 (Feb. 20, 1990). The waiver was continued on June 8, 1990, when President Bush informed Congress that potential emigrants from Czechoslovakia only need a valid passport and a foreign immigrant visa. Passports were issued routinely for travel to all countries and an exit visa was no longer required to travel. Also all bilateral family reunification cases were resolved. 26 WEEKLY COMP. PRES. DOC. 895 (June 11, 1990).

44. *The Week in Germany*, July 6, 1990, at 6.

45. *See* Serge Schmemann, *For Emigres From Eastern Europe, Journey Ends Just Short of West*, N.Y. TIMES, Nov. 1, 1990, at A13.

In January 1991, the French Government announced that it would no longer grant political refugee status to citizens from Czechoslovakia, Hungary, and Poland on the ground that those countries were now democracies. *See* Alan Riding, *France Imposes a Tighter Political Refugee Policy*, N.Y. TIMES, Feb. 14, 1991, at A11.

46. 27 WEEKLY COMP. PRES. DOC. 1757 (Dec. 9, 1991).

47. *See Smugglers of Human Contraband Across the Czech Border*, THE GERMAN TRIBUNE, No. 1488, Oct. 13, 1991, at 15.

ratify the Optional Protocol[48] to the International Covenant on Civil and Political Rights, relating to the status of refugees. The revolution across Central and Eastern Europe during the previous year brought political and socio-economic changes in Hungary. President Bush announced at Karl Marx University on July 12, 1989[49] that once the Hungarian Parliament passed a new emigration law,[50] he would inform Congress that Hungary was in full compliance with the Jackson-Vanik Amendment of the 1974 Trade Act. This would negate the need for an annual vote by Congress on Hungary's most-favored-nation trading status.

At the end of June 1989, Hungary dismantled its barbed-wire fence with Austria that had formed part of the "iron curtain" dividing Europe. On September 11, the Hungarian Government decided to allow East Germans to cross over its frontier to Austria, and thousands used this route to escape to West Germany until the G.D.R. cut off exit permits for travel to Hungary.

During October 1989, the Hungarian Parliament rewrote the constitution, legalized opposition political parties, and proclaimed itself a Republic instead of a "socialist republic".[51] Hungary had passed the litmus test and was granted temporary most-favored-trading status by the United States.[52] Although Hungarians were free to travel abroad, the amount of convertible currency for travel was curtailed by the Government in early November.[53]

The summer of 1990 witnessed a great upsurge of both Eastern and Western European tourists into Hungary, but authorities were most concerned with the 850,000 Romanian tourists who were still in the country.[54] Hungary also became the destination for thousands of Romanian ethnic Hungarians and other Romanian nationals. Other East Europeans used Hungary as the conduit to Western European countries with the result that in September 1990, Austria assigned army troops to patrol its border with Hungary and returned illegal immigrants.[55]

---

48. DEPT. OF STATE BULL, Aug. 1989, at 89.

49. Henry Kamm, *Bush Extends Support to Hungary And Offers Modest Ecomomic Aid*, N.Y. TIMES, July 13, 1989, at A1; excerpts from the President's speech are found at A10.

50. The necessary legislation was passed during October 1989. For a discussion of the legislation see Francis A. Gabor, *Reflections on the Freedom of Movement in Light of the Dismantled "Iron Curtain"*, 65 TULANE L. REV. 849, 855-861 (1991).

51. *See* N.Y. TIMES, Oct. 19, 1989, at A8; Oct. 20, 1989, at A10; and Oct. 24, 1989, at A1.

52. *See* Emigration Laws and Policies of the Republic of Hungary, Message from the President of the United States transmitting his determination that Hungary meets the emigration criteria for the Jackson-Vanik Amendment to the Trade Act of 1974, *pursuant to* 19 U.S.C. 2432 (b), 102d Cong. 1st Sess. House Doc. 102-33, Jan. 23, 1991.

53. *See* Henry Kamm, *Most Hungarians Enjoy Freedom From Politics*, N.Y. TIMES, Nov. 7, 1989, at A14.

54. *See* Celestine Bohlen, *Flow of Tourists Shifts in Hungary*, N.Y. TIMES, Sept. 6, 1990, at A5.

55. *See* Serge Schmemann, *For Emigres From Eastern Europe, Journey Ends Just Short of West*, N.Y. TIMES, Nov. 1, 1990, at A13. Austria, however, did not reimpose visa

The Hungarian Government continued its liberal emigration policy and was rewarded on December 4, 1991 with permanent most-favored-nation trading status by the United States.[56] Meanwhile, the civil war in neighboring Yugoslavia brought refugees seeking temporary shelter into the surrounding States, periodically causing the host to resort to extreme measures. For example, during October 1991, Hungarian border authorities required visitors at Soviet and Romanian borders to prove that they had sufficient funds to return home before allowing admittance.[57] Since September 1989, Hungary has supported the emigration of Soviet Jews to Israel by allowing Budapest to be a transit stop for flights to Tel Aviv from Moscow, despite occasional acts of terrorism on Hungarian territory.[58]

E. *Poland*

In Poland, a Solidarity-led government took office on September 12, 1989. On November 21, the United States, recognizing that both Hungary and Poland had made remarkable progress toward becoming free and democratic societies, announced that it would sharply curtail admission of their citizens to the United States as political refugees unless there was well-founded fear of persecution in their home country.[59]

The opening of the East German border with West Germany on November 9, 1989 strained East German-Polish relations. Their common border had remained closed since 1981 when Poland imposed martial law. As a result, only those Poles with a formal invitation to East Germany or who were en route to West Berlin could enter the G.D.R. With the need for workers in East Germany, about 40,000 Poles were leaving with or without proper passports to work in the G.D.R.[60]

Once borders were opened between East and West Germany, Poles began to cross the border in record numbers to shop and to smuggle. The actual numbers became so great that the West Berlin Senate announced

---

requirements for Hungarians or Czechoslovakians as it did upon Poles on Sept. 7. *See* Craig R. Whitney, *Surprise for Western Europe: Eastern Kin Come Knocking*, N.Y. TIMES, Nov. 15, 1990, at A1. *See also* Alan Riding, *West Europe Braces for Migrant Wave From East*, N.Y. TIMES, Dec. 14, 1990, at A10.

56. 27 WEEKLY COMP. PRES. DOC. 1757 (Dec. 9, 1991).

57. *See* Celestine Bohlen, *Neighbors Making Budapest Uneasy*, N.Y. TIMES, Oct. 13, 1991, at A8; Celestine Bohlen, *Hungarians Open Hearts and Homes to Yugoslavs*, N.Y. TIMES, Oct. 18, 1991, at A1.

58. *See Hungary Bombing Leaves 6 Wounded*, N.Y. TIMES, Dec. 24, 1991, at A9.

59. This change would bar refugee status to at least 19,000 of the 20,000 Poles and Hungarians who had filed applications at American embassies and consulates. Only 6,500 refugees were to be admitted into the U.S. in fiscal year 1990. In the previous year, 3,607 Polish and 1,075 Hungarian refugees were admitted. *See* Robert Pear, *Number of Poles and Hungarians Admitted as Refugees Will Be Cut*, N.Y. TIMES, Nov. 22, 1989, at A1.

60. *See* Craig R. Whitney, *New Measures Strain Poland's Ties to 2 Germanys*, N.Y. TIMES, Dec. 16, 1989, at A8; John Tagliabue, *Poles Seeking The Jobs Left By Germans*, N.Y. TIMES, Nov. 18, 1989, at A7.

in early June 1990 that as of July 1st all Poles entering the city would require a valid West German visa.[61] After German reunification in October 1990, Poland continued to admit former East Germans as visitors without a visa, while the German Government continued to require visas for entry by Poles.[62]

Due to the great numbers of Romanians coming into Poland and seeking to stay and trade illegally, Poland counteracted on December 10, 1990 by requiring Romanians to show 200,000 zlotys for each day they wished to stay.[63] On March 29, 1991, the Benelux countries, France, Germany, and Italy agreed to allow Polish nationals to travel visa-free.[64]

By early October 1991, more than four million Soviet citizens had visited Poland. After May 20, 1991, when Soviet citizens could emigrate legally, many went to Poland on a valid passport and an invitation from a Polish citizen to legally work in the country where they earned convertible Polish currency. Officially, Poland could not estimate the total number of these Soviet guest workers.[65]

F. *Romania*

On June 26, 1989, Romania began to remove the 188-mile barbed-wire fence that it had erected to prevent its Hungarian minority from crossing illegally into Hungary.[66] Events in Central and Eastern Europe during 1989 did not bring any relaxation of freedom-of-movement restrictions from the Romanian Government. However, tens of thousands of Romanians fled illegally to Hungary over the previous two years, including the former Olympic champion, Nadia Comaneci, in late November.[67] Before the year's end, protests against the Government's repression led to violence, death, and the ouster from power of President Ceausescu.[68] The

---

61. *See* Michael Kallenbach, *West Berlin Limits Invasion of Polish Shoppers*, CHRISTIAN SCIENCE MONITOR, June 5, 1990, at 4.

62. Austria reimposed its visa requirement for Poles on Sept. 7, 1990. *See* Craig R. Whitney, *Surprise for Western Europe: Eastern Kin Come Knocking*, N.Y. TIMES, Nov. 15, 1990, at A1.

63. *See For East Europe's Hopeful, Warsaw Glitters*, N.Y. TIMES, Dec. 26, 1990, at A7.

64. Under the agreement, Poland agreed to take back its citizens who overstayed the 3-month travel period or who worked illegally in any of the six countries. *See* John Tagliabue, *Poles Get Wider Travel Rights*, N.Y. TIMES, Mar. 30, 1991, at A2; Stephen Kinzer, *Germany Lets Poles in Without Visas*, N.Y. TIMES, April 9, 1991, at A3.

65. *See* Stephen Engelberg, *Lured by Zlotys, Ivan Plays The Model Migrant Worker*, N.Y. TIMES, Oct. 6, 1991, at A1.

66. *Rumania Is Said to Remove Fence Along Hungary Border*, N.Y. TIMES, June 27, 1989, at A4. The Romanian response may have been due to the Soviet Union's first public criticism of an Eastern European ally during the first CSCE sponsored meeting at the Conference on the Human Dimension in Paris. *See* Steven Greenhouse, *Soviets, at Parley on Rights, Assail Rumania Over Fence*, N.Y. TIMES, June 25, 1989, at 17.

67. N.Y. TIMES, Nov. 30, 1989, at A19.

68. *See* David Binder, *At Least 13 Are Reported Killed at Protest in Rumania's Capital*, N.Y. TIMES, Dec. 22, 1989, at A1. Romania's 11 days of turmoil are shown on a day-by-day basis in Reports in Romania, N.Y. TIMES, Dec. 27, 1989, at A11.

new government adopted a more liberal emigration policy such that West Germany had to plan for the immigration of an estimated 220,000 ethnic Germans from Romania.[69] Meanwhile, Romanians who applied for emigration to the United States were told that they were no longer eligible for preferential treatment as immigrants since political repression was no longer a factor.[70]

After the fall of the Ceausescu regime, the West became aware of the plight of thousands of Romanian children who were abandoned and orphaned. Nearly 7,000 of these children have been adopted since December 1989 by Western European and American couples. Unfortunately, an illegal market involving children for sale was created alongside the genuine humanitarian desire to adopt through the legal international adoption process. By May 23, 1991, Americans had adopted 1,443 Romanian children, oftentimes in the face of great obstacles in obtaining the requisite United States visa for the child. The Romanian Government announced that as of June 1, 1991 foreign adoptions would be suspended until new legislation was in place to curtail illegal trafficking of children.[71]

Generally, foreign travel and emigration are no longer restricted for Romanians. During 1990, the Government issued more than 3.6 million tourist passports and more than 129,000 emigrant passports. In the case of the latter, the applicant must prove to be debt-free, comply with regulations concerning termination of employment, and present a customs

---

Soon after Ceausescu's death, it was disclosed that Israel secretly paid thousands of dollars for each visa issued to allow Romanian Jews to emigrate to Israel. Ceausescu personally pocketed more than $50 million from this practice. *See* Clyde Haberman, *For Judaism's Remnant, Coup Is Mixed Blessing*, N.Y. TIMES, Jan. 3, 1990, at A12. The appearance of Romania's liberal emigration policy towards its Jewish population brought the added benefit of most-favored-nation status in trade with the United States for many years until President Reagan withdrew the status in February 1988.

From 1978 until the death of Ceausescu, the Bonn Government paid a bounty of approximately $5,000 (U.S.) for each of the 10,000-15,000 ethnic Germans allowed to emigrate annually from Romania. *See* Chuck Sudetic, *Ethnic Germans in Romania Dwindle*, N.Y. TIMES, Dec. 28, 1990, at A3.

69. WEEK IN GERMANY, Jan. 19, 1990, at 1. Some 23,000 ethnic Germans left Romania in 1989. GERMAN TRIBUNE, No. 1417, April 29, 1990, at 6.

70. *See* David Binder, *Rumanians Fret, "Where Are The Americans?"* N.Y. TIMES, Jan. 23, 1990, at A9. The ousted Communist leaders in many of the Eastern European countries and the process of democratization caused new flows of economic refugees. On March 15, 1990, Austria, which had 21,882 East Europeans including approximately 8,000 Romanians in 1989, and 3,500 so far in 1990, changed its admissions procedure requiring visas before reaching the border and visitors to have the equivalent of $400 in Western currency to pay for their stay. To avoid the new requirements some 5,000-7,000 Romanians entered Austria to claim refugee status during the last 24 hours before the deadline. *See* Paul Lewis, *Romanians Flood Austria as It Restricts Borders*, N.Y. TIMES, Mar. 15, 1990, at A12.

71. *See* David Binder, *U.S. Issues Warning of Obstacles in Adopting Romanian Children*, N.Y. TIMES, May 24, 1991, at A2; *Romania Halts Adoptions, Pending Law*, GLOBE AND MAIL, May 24, 1991, at A8. On July 27, 1991, the United States Immigration and Naturalization Service announced measures to restrict the adoption of Romanian children. *See U.S. Moves to Curb Adoption of Romanians*, N.Y. TIMES, July 28, 1991, at 8.

declaration for goods taken out of the country.[72] As Romanian emigration policy reflected a wide freedom of choice, President Bush waived the Jackson-Vanik Amendment on August 17, 1991[73] making Romania eligible to apply for credit guarantees for commercial imports of U.S. agricultural products. The waiver did not restore most-favored-nation tariff status, which Romania renounced in 1988.

G. *Soviet Union*

On March 8, 1989, the Soviet Union announced that it would accept the jurisdiction of the International Court of Justice with respect to five human rights treaties.[74] At the end of March, the Soviet psychiatric society was granted provisional readmission to the World Psychiatric Association despite a preliminary report by a group of visiting experts that the official Soviet practice of confining political prisoners in mental hospitals had not ended.[75]

The Soviet policy of glasnost impacted travel in a positive way. By mid-summer, Western diplomats had seen a draft of a Soviet law that would allow Soviet citizens to leave the country at the invitation of foreign business, organization, or individual. There was to be an easing of the "state secrets" impediment and removal of the 500 ruble exit tax on emigres to Israel. Moreover, the requirement of an invitation from abroad for private visits was to be erased. Private travel had already increased dramatically in the first six months of 1989.[76]

Before September 1988, Soviet Jews and evangelical Christians were almost always accorded refugee status by the United States for immigra-

---

72. President's 29th CSCE Report, Implementation of the Helsinki Final Act, Apr. 1, 1990-Mar. 31, 1991, U.S. Dept of State, 2 DISPATCH Supplement No. 3, at 32-33 (July 1991).

73. Exec. Order 12,772, *reprinted in* 27 WEEKLY COMP. PRES. DOC. 1167 (August 26, 1991).

74. *See* Paul Lewis, *Soviets To Accept World Court Role In Human Rights*, N.Y. TIMES, Mar. 9, 1989, at A1.

75. See Elaine Sciolino, *Panel of World Psychiatrists Votes To Readmit Soviets to Membership*, N.Y. TIMES, Mar. 31, 1989, at A2; Bill Keller, *U.S. Psychiatrists Fault Soviet Units*, N.Y. TIMES, Mar. 12, 1989, at A1. For a synopsis of the American findings in its report, *see US and USSR Psychiatric Care Practices*, Hearing before the Subcommittee on Health and the Environment, Comm. Energy & Commerce, H.R. 101st Cong. 1st Sess. Oct. 2, 1989; Robert Pear, *Report Reproaches Soviet Psychiatry*, N.Y. TIMES, July 13, 1989, at A3. *See also* Robert Pear, *U.S. Psychiatrists Oppose Soviet Members For World Group*, N.Y. TIMES, Sept. 21, 1989, at A15; Michael R. Gordon, *Soviet Envoy Tells U.S. of Psychiatric Reforms*, N.Y. TIMES, Oct. 3, 1989, at A10. The Soviet Union was readmitted on October 18, 1989. Steny H. Hoyer, *Psychiatric Abuses Persist in Russia*, THE WASH. POST; Aug. 22, 1989, at A19. *See generally*, Lorri M. Thompson, *Soviet Straightjacket Psychiatry: New Legislation to End the Psychiatric Reign of Terror in the U.S.S.R.*, 16 SYRACUSE J. INT'L L. & COM. 271 (1990); Richard J. Bonnie, *Coercive Psychiatry and Human Rights: An Assessment of Recent Changes in the Soviet Union*, 1 CRIM. L. F. 319 (1990).

76. Ann Cooper, *U.S. Foresees Rush In Soviet Emigres*, N.Y. TIMES, July 13, 1989, at A1. On July 26, tourist visas for Israeli visits to the Soviet Union became available for the first time since 1967. N.Y. TIMES, July 27, 1989, at 6.

tion purposes. Most of the Jews who initially left the Soviet Union had visas for Israel, but once in Rome or Vienna, they often opted to emigrate to the United States instead.[77] After the relaxation of Soviet exit restrictions, Congress passed bills to make it easier for Soviet Jews and evangelical Christians to emigrate to the United States. However, as the Soviet door opened wide, the Bush administration announced a new policy to go into effect on October 1 to choke the flow of these refugees to the United States.[78] The new law imposed a ceiling of 50,000 Soviet refugees for 1990 fiscal year.[79]

Noting the political changes and the more liberal government policies regarding freedom of movement among many of the East bloc countries during the previous three months, and due to its desire for the United States to remove trade barriers, on November 16 the Soviet Union promised to revise its law and permit freer emigration for Soviet citizens.[80] As a result, Soviet Jews were allowed to emigrate during 1989 in record numbers. To assist emigrants leaving for Israel, El Al and Aeroflot national airlines signed an agreement for direct flights between Moscow and Tel

---

77. Israel was clearly not able to absorb all of the Soviet Jews who emigrated to the country. *See* Joel Brinkley, *Soviet Jews Finding Israel Short of Jobs and Housing*, N.Y. TIMES, Sept. 17, 1989, at A1. Roberta Cohen, *Israel's Problematic Absorption of Soviet Jews*, 3 INT'L J. REFUGEE L. 60 (1991).

Israel asked the U.S. for loan guarantees to finance construction of housing for the Soviet emigres. *See* Robert Pear, *Israel Asking U.S. For Aid On Housing For Soviet Emigres*, N.Y. TIMES, Oct. 2, 1989, at A22.

78. *See* Robert Pear, *U.S. Drafts Plans To Curb Admission of Soviet Jews*, N.Y. TIMES, Sept. 3, 1989, at A1; Robert Pear, *Soviet-Refugee Plan Faulted: Critics Say Flow Will Dry Up*, N.Y. TIMES, Sept. 15, 1989, at A1. *See also* Greg A. Beyer, *The Evolving United States Response to Soviet Jewish Emigration*, 3 INT'L J. REFUGEE L. 30 (1991).

In 1989, nearly 9,000 evangelical Christians traveled to the United States via Austria and Italy. The new procedure led to great hardships for those emigrating so that the U.S. had to arrange a special airlift for about 6,000 Soviet Christians in Sept. 1990. *See* Philip Shenon, *U.S. Begins Airlift of Soviet Christians*, N.Y. TIMES, Sept. 22, 1990, at A3.

79. *See* Lucia Mouat, *US Open-Door Policy Shuts Slightly*, THE CHRISTIAN SCIENCE MONITOR, Sept. 29, 1989, at 7; Robert Pear, *Closing The Door Halfway For Emigrant Soviet Jews*, N.Y. TIMES, Sept. 24, 1989, at E3. The U.S. would only be admitting 6,500 refugees from Eastern Europe during the 1990 fiscal year. *See* Robert Pear, *Bush Seeks Slight Increase In Flow of Refugees to U.S.*, N.Y. TIMES, Sept. 12, 1989, at A12.

Although the U.S. issued about 100,000 visas to Soviet business and professional visitors in 1989, and more than 1,000 visas to Soviet scientists to teach and conduct research at American institutions, red tape in the U. S. bureaucracy could not keep up with the demand. *See* Malcolm W. Browne, *Visas For Scientists From East Said to Lag Despite Eased Tensions*, N.Y. TIMES, Feb. 11, 1990, at A22.

80. *See* Robert Pear, *Soviets to Liberalize Emigration, Hoping to Gain U.S. Trade Deal*, N.Y. TIMES, Nov. 17, 1989, at A1. The Soviet Union was successful in reaching a trade agreement with the European Community on November 27, but the agreement did not confer most-favored-nation status upon the Soviet Union, a status that the Soviet Union was seeking from the United States, but it would be required to implement the proposed emigration law. *See* Paul L. Montgomery, *Trade Pact For Soviets And Europe*, N.Y. TIMES, Nov. 28, 1989, at D1; Amy Kaslow & Paul L. Bush, *Congress Work To Give Favored Trade Status to Soviets*, CHRISTIAN SCIENCE MONITOR, Nov. 16, 1989, at 1.

Aviv to begin in 1990.[81] In 1989, the Soviet Union allowed more than 70,000 Soviet Jews to emigrate.[82]

Another example of greater tolerance by the Soviets for travel by its citizenry occurred in March 1990 when the Soviet Union concluded an agreement with Iran allowing Soviet Azerbaijanis to travel to Iran for the first time since becoming a communist state.[83] Along with the new nationalism emerging in the Soviet republics, such as the demand for independence from the Baltic States and other parts of Eastern Europe, old hatreds also emerged.[84]

As the agreement for direct flights from Soviet cities to Israel did not enter into operation, the route remained Soviet Union-Hungary-Tel Aviv. In March, the Soviet Union announced that this route could no longer used because Hungary was threatened with terrorism from an Islamic fundamentalist group. Hungary suspended flights to Israel for Soviet emigrants.[85] A few days later, Poland responded that it would transport the Soviet Jews to Israel.[86]

---

81. *See* Joel Brinkley, *Soviet Jews Leave At A Record Pace, Many For Israel*, N.Y. TIMES, Dec. 14, 1989, at A1. The number of Soviet Jews arriving in Israel for resettlement alarmed the Arab World that they would displace Palestinians in the occupied territories. *See* Alan Cowell, *Arabs Warning Against Influx of Soviet Jews*, N.Y. TIMES, Jan. 29, 1990, at A12. For the Israeli response, *see* Sabra Chartrand, *Jerusalem Says It Has No Policy To Settle Soviet Jews in West Bank*, N.Y. TIMES, Jan. 31, 1990, at A2. On February 4, 1990, on a visit to Tunis, the Deputy Soviet Foreign Minister indicated that Moscow would not allow direct flights from Moscow to Tel Aviv. *See* Joel Brinkley, *How Shamir At Home Caused Storm Abroad*, N.Y. TIMES, Feb. 5, 1990, at A12. During 1989, 12,923 Soviet Jews arrived in Israel. Bruce W. Nelan, *Exodus to the Promised Land*, TIME, Feb. 12, 1990, at 42.

Interestingly, Israel reported that 12,923 Soviet Jews emigrated to the country while approximately 15,000 Israelis left permanently. *See* Joel Brinkley, *As Jerusalem Labors to Settle Soviet Jews, Native Israelis Slip Quietly Away*, N.Y. TIMES, Feb. 11, 1990, at A3.

82. According to Israel, 71,196 Soviet Jews emigrated in 1989. *See* Robert Pear, *Moscow Rejects U.S. Plea to Allow Flights to Israel*, N.Y. TIMES, Feb. 20, 1990, at A1.

83. *Iran Allowing Travel By Soviet Azerbaijanis*, N.Y. TIMES, Mar. 22, 1990, at A16.

84. *See* William Korey, *A Fear of Pogroms Haunts Soviet Jews*, N.Y. TIMES, Jan. 25, 1990, at A23. Francis X. Clines, *Anxiety Over Anti-Semitism Spurs Soviet Warning on Hate*, N.Y. TIMES, Feb. 2, 1990, at A1; Frank J. Prial, *Survey in Moscow Sees a High Level of Anti-Jewish Feeling*, N.Y. TIMES, Mar. 30, 1990, at A8.

Nor was the hatred confined to the Soviet Union. *See* Celestine Bohlen, *A Survival of the Past, Anti-Semitism Is Back*, N.Y. TIMES, Feb. 20, 1990, at A10; Celestine Bohlen, *The Romanian Revolution Over, It's Back to Old Hatreds in Transylvania*, N.Y. TIMES, Mar. 21, 1990, at A16. Marvine Howe, *Eastern Europe Jews Bring Mixed Reports of the New Societies*, N.Y. TIMES, Mar. 18, 1990, at A15.

85. *See* Celestine Bohlen, *Hungary Halts Emigre Flights After Muslim Threat*, N.Y. TIMES, Mar. 22, 1990, at A18; Joel Brinkley, *Soviets to Curb Jews' Flights to Israel*, N.Y. TIMES, Mar. 24, 1990, at A6. One later report indicated that not all Hungarian charter flights to Israel were discontinued. *See* Joel Brinkley, *Soviet Emigres to Israel Topped 7,000 in March*, N.Y. TIMES, Apr. 3, 1990, at A5.

86. *See* Frank J. Prial, *Poland Promises to Help Soviet Jews Fly to Israel*, N.Y. TIMES, Mar. 27, 1990, at A11; Stephen Engelberg, *Poland to Let Soviet Jews Fly to Israel From Warsaw*, N.Y. TIMES, May 30, 1990, at A14. Other countries also were willing to issue transit visas to Israel bound Soviet Jews. *See* Celestine Bohlen, *Victor in Hungary Sees '45 as the Best of Times*, N.Y. TIMES, Apr. 10, 1990, at A8 and Youssef M. Ibrahim, *Israel Answers*

On June 1, 1990, after receiving assurances from President Gorbachev on the proposed emigration law and efforts to resolve the crisis over Lithuania's independence, President Bush and the Soviet leader signed a trade agreement.[87] Because of the greater numbers of Soviet Jews emigrating to Israel and Arab concern[88] over these new immigrants displacing the Arabs in the Israeli occupied territories, President Gorbachev warned Israel that emigration would be curtailed if Israel did not pledge to keep Soviet Jews from settling on these lands.[89] In a surprise move at the end of September, President Gorbachev announced his approval for direct flights to resume between the Soviet Union and Israel. Hence, Soviet emigrants would no longer need to arrive via European transit points.[90] Meanwhile, by mid-September 1990, the sharp increase in applications by Soviet Jews waiting to emigrate to the Federal Republic of Germany brought that country's Interior Ministry to request its consulates in the USSR to stop processing further applications.[91] During October, the United States announced that it would admit 60,000 Soviet

---

Soviets, Denies Plans for Settlers, N.Y. TIMES, June 4, 1990, at A11.

87. *See* Clyde H. Farnsworth, *Trade Accord Holds Many Prizes, But Obstacles to Passage Remain*, N.Y. TIMES, June 2, 1990, at A7. On June 5, the Soviet Parliament indicated that it would not take up the emigration bill until September. *See* Andrew Rosenthal, *Bush Gains Time as Moscow Delays Law on Emigration*, N.Y. TIMES, June 6, 1990, at A1. *See also* Steckelman, *Advancing Soviet-American Trade: The Legal Steps Necessary to Further Economic Relations*, 11 N.Y. L. SCH. J. INT'L & COMP. L. 463 (1990).

88. *See* Alan Cowell, *Arabs Applaud Gorbachev Remark*, N.Y. TIMES, June 5, 1990, at A3.

89. *See* Joel Brinkley, *Israel Won't Send Soviet Immigrants to The West Bank*, N.Y. TIMES, June 25, 1990, at A1; Joel Greenberg, *Israel Bows to Soviet Pressure On Settling Jewish Emigrants*, CHRISTIAN SCIENCE MONITOR, June 27, 1990, at 6.

Israel was not able to cope with growing numbers of immigrants. *See* Joel Brinkley, *In Emigre Crush, Tent Towns Sprout for Israelis*, N.Y. TIMES, June 22, 1990, at A10; Joel Brinkley, *On Settling Soviet Jews Israel Not So Clear Now*, N.Y. TIMES, June 27, 1990, at A8; Joel Greenberg, *Poor Israelis Protest Influx of Soviet Jews*, THE CHRISTIAN SCIENCE MONITOR, July 18, 1990, at 5; Sabra Chartrand, *Taxes Approved by Israeli Cabinet*, N.Y. TIMES, Sept. 14, 1990, at A6. Jews were also emigrating to Israel from other countries. *See* Clifford Krauss, *Ethiopia Says all Jews Are Free to Leave for Israel*, N.Y. TIMES, Nov. 2, 1990, at A11.

Perhaps to stem the tide of Soviet emigres to Israel the question was raised as to who qualified as a "Jew" for immigration purposes. *See* Abraham Rabinovich, *Screening Soviet Immigrants*, CHRISTIAN SCIENCE MONITOR, Aug. 29, 1990, at 18.

The growing number of Soviet emigres to Israel became acute with respect to Israeli-U.S. relations. *See Israel Retracts Pledge to U.S. On East Jerusalem Housing*, N.Y. TIMES, Oct. 19, 1990, at A16. *See also* Sabra Chartrand, *Israel Lags in Housing for Soviet Jews*, N.Y. TIMES, Nov. 2, 1990, at A11.

90. *Israel Says U.S.S.R. Approves Direct Flights*, N.Y. TIMES, Sept. 30, 1990, at A8.

91. WEEK IN GERMANY, Oct. 12, 1990, at 6. On Oct. 31, the Bundestag in Bonn called for freedom to emigrate to Germany for Soviet Jews, WEEK IN GERMANY Nov. 2, 1990, at 2. *See also* Stephan Kinzer, *New Aspiration For Soviet Jews Life in Germany*, N.Y. TIMES, Dec. 25, 1990 at A1. During 1990, over 5,000 Soviet Jews who came to Germany as visitors were granted residency status. Thousands more completed the necessary visa application for emigration in 1991. *See* Francine Kiefer, *Soviet Jews Emigrate to Germany*, CHRISTIAN SCIENCE MONITOR, July 29, 1991, at 6.

refugees for the 1991 fiscal year.[92] The U.S. change in procedure that allowed Soviet emigrants to leave for the United States directly from Soviet territory did not function smoothly. For example, under the previous system, Soviet Christian fundamentalists were required to have entry permits from Israel in their passports although the United States was the actual destination. Soviet bureaucratic recalcitrance in October 1990 refused to allow these U.S.-bound emigres to depart.[93]

Soviet emigres were arriving in Israel in such record numbers that the Israeli Government was pressed to take unpopular domestic measures to absorb the newcomers.[94] Soviet emigration figures for the year were so high and the anticipated food shortages in the Soviet Union for the winter so realistic that a change of United States policy on December 12, 1990 was announced by President Bush temporarily waiving parts of the Jackson-Vanik Amendment and providing the Soviet Union with $1 billion in loan guarantees to purchase needed food.[95]

In January 1991, at an international conference[96] sponsored by the Council of Europe on migrants and refugees, the Soviet Union indicated that Western European nations could expect as many as 2 million Soviet

---

92. *See* Andrew Rosenthal, *U.S. Will Allow 6,000 More Refugees Next Year*, N.Y. TIMES, Oct. 16, 1990, at A11. During 1990, some 50,000 Soviet refugees came to the United States, 40,000 of whom came with U.S. federal assistance, and 10,000 with assistance from private organizations.

93. *See* Francis X. Clines, *200 on Verge of Soviet Exit Are Stalled*, N.Y. TIMES, Oct. 25, 1990, at A3.

94. *See* Joel Brinkley, *Israeli Cabinet Approves Increase in Taxes to Help Immigrants*, N.Y. TIMES, Nov. 29, 1990, at A8; Joel Brinkley, *Israelis Go On Strike to Fight a Tax to Absorb Emigres*, N.Y. TIMES, Dec. 3, 1990, at A3. *See also* Youssef M. Ibrahim, *Soviet Influx Has the Israelis Building, Fighting and in Awe*, N.Y. TIMES, Jan. 9, 1991, at A1.

In February 1991, what was to become a major irritant in U.S. loan guarantees for housing Soviet Jews began. *See* Joel Brinkley, *U.S.-Israeli Strains Appear Over Delayed Housing Aid*, N.Y. TIMES, Feb. 8, 1991, at A10; Joel Brinkley, *Israel Asserts New U.S. Aid For Housing Is Insufficient*, N.Y. TIMES, Feb. 22, 1991, at A2.

On the problems faced by the Soviet newcomers to Israel, see Joel Brinkley, *For New Soviet Immigrants in Israel, Hard Times*, N.Y. TIMES, Mar. 9, 1991, at A1.

95. *See* Andrew Rosenthal, *Bush, Lifting 15-Year-Old Ban, Approves Loans For Kremlin to Help Ease Food Shortages*, N.Y. TIMES, Dec. 13, 1990, at A1; Clyde H. Farnsworth, *Bush's Move Unlikely to Mean Quick Trade Surge*, N.Y. TIMES, Dec. 13, 1990, at A22; Clyde H. Farnsworth, *U.S. and Partners in Accord on Aid to Soviet Economy*, N.Y. TIMES, Dec. 14, 1990, at A1.

By the end of 1990, more than 370,000 emigrants left the Soviet Union including 195,500 Jews and 148,000 ethnic Germans. 12 CRS REVIEW 33 (July 1991).

For differing views on the merits of the waiver of the Jackson-Vanik Amendment, *see* Bradner, *The Jackson-Vanik Amendment To The Trade Act of 1974: Soviet Progress on Emigration Reform Is Insufficient to Merit A Waiver*, 4 GEO. IMMIGR. L. J. 639 (1990); Robert H. Brumley, *Jackson-Vanik: Hard Facts, Bad Law?*, 8 B.U. INT'L L. J. 363 (1990); Dow, *Linking Trade Policy to Free Emigration: The Jackson-Vanik Amendment*, 4 HARV. HUM. RTS. J. 128 (1991).

96. *See* Celestine Bohlen, *Europeans Confer on Emigre Limits*, N.Y. TIMES, Jan. 27, 1991, at A1; Paul Lewis, *As Soviet Borders Open, the West Braces for an Economic Exodus*, N.Y. TIMES, Feb. 10, 1991, at D4.

citizens to leave their country in search of work once the USSR passed its new travel law. During early May, the Supreme Soviet began to debate the long-awaited emigration bill.[97] Finally, on May 20th, the law was passed conferring the right of Soviet citizens to travel and emigrate freely beginning on January 1, 1993.[98] This move was regarded with favor by President Bush who on June 3 exercised his discretion to waive the requirements of the Jackson-Vanik Amendment for twelve more months and thereby allowing further credit guarantees to the Soviet Union for additional food purchases.[99] In May, Israeli authorities acknowledged that many Soviet Jews had decided to postpone emigration to Israel because of conditions in Israel rather than any obstacles preventing their departure.[100]

During the Moscow summit in July, President Bush announced that the June 1990 Agreement on Trade Relations between the United States and the Soviet Union would be submitted for Congressional approval.[101] The Agreement entered into force on October 9, 1991.[102]

In early September, the Soviet Union recognized the independence of

---

97. *See A Free-Emigration Bill Is Debated in Moscow*, N.Y. TIMES, May 8, 1991, at A10; Esther B. Fein, *Wary of Expense Soviets Debate Bill on Travel and Emigration*, N.Y. TIMES, May 13, 1991, at A6; Esther B. Fein, *Soviets Stalling A Bill To Permit Free Emigration*, N.Y. TIMES, May 14, 1991, at A1.

98. For a brief account of how the emigration law was passed, *see Parliament Finally Passes Emigration Law*, 43 CURRENT DIGEST OF THE SOVIET PRESS 10 (June 19, 1991); On Procedures For Exit From The Union of Soviet Socialist Republics and Entry Into The Union of Soviet Socialist Republics by USSR Citizens, *translated in* 43 CURRENT DIGEST OF THE SOVIET PRESS 14 (July 31, 1991). *See also* Esther B. Fein, *Soviets Enact Law Freeing Migration And Trips Abroad*, N.Y. TIMES, May 21, 1991, at A1. *See also* Vladimir Kartashkin, *Human Rights And The Emergence Of The State Of The Rule Of Law In The USSR*, 40 EMORY L.J. 889, 900-902 (1991).

Apparently the new passport law's procedure went into effect on July 1, 1991, as over 20,000 Soviet Jews emigrated to Israel in June in a rush to leave the country as they doubted the Soviet bureaucracy's ability to implement the new procedure. *See* Joel Brinkley, *Rush of Soviet Immigrants to Israel*, N.Y. TIMES, July 2, 1991, at A3.

Several British and American politicians pointed out certain restrictive provisions in the new Soviet emigration law. *See* British Information Service, 21 SURVEY OF CURRENT AFFAIRS 360-361 (Oct. 1991); Commission on Security and Cooperation In Europe, DIGEST 3 (May 1991).

99. *See* Thomas L. Friedman, *Bush Clears Soviet Trade Benefits and Weighs Role in London Talks*, N.Y. TIMES, June 4, 1991, at A1. In 1990, the Soviet Union allowed more than 370,000 citizens to emigrate. *See* CRS REVIEW, July 1991, at 33. *See also* Andrew Rosenthal, *Bush Backs Loans For Soviet Farms Worth $1.5 Billion*, N.Y. TIMES, June 12, 1991, at A1. The waiver to the Soviet Union also applied to Estonia, Latvia and Lithuania. *See* President's Letter to Congressional Leaders on Trade With the Soviet Union, Bulgaria, Czechoslovakia and Mongolia, 27 WEEKLY COMP. PRES. DOC. 706 (June 10, 1991).

100. *See* Serge Schmemann, *Jews In Moscow Expect Flow of Emigrants to Israel to Pick Up Again*, N.Y. TIMES, May 5, 1991, at A1; Joel Brinkley, *Israeli Economy Is Keeping Many Jews in U.S.S.R.*, May 5, 1991, at A1; Sabra Chartrand, *In Promised Land, Jobs Don't Match The Dream*, N.Y. TIMES, June 21, 1991, at A4.

101. *See* Keith Bradsher, *Soviet Trade Pact Sent To Congress*, N.Y. TIMES, Sept. 12, 1991, at A13.

102. 27 WEEKLY COMP. PRES. DOC. 1422 (Oct. 14, 1991).

the Baltic States. The following week, at the first session of the Moscow meeting of the Conference on the Human Dimension of the CSCE, Estonia, Latvia and Lithuania were admitted to membership.[103] On December 4, 1991, the three Baltic States received permanent most-favored-nation trading status from the United States.[104]

Although Soviet emigration was liberalized during 1991, only 39,000 Soviet refugees came to the United States during the 1991 fiscal year.[105] During the second week of December, when Russia, Ukraine, and Byelorussia declared themselves the "Commonwealth of Independent States," Israel braced itself for another wave of immigration before the end of the year as 70,000 people already had full Soviet permission to leave and another 30,000 had Israeli entry visas in hand.[106]

IV. IMMIGRATION IN THE FUTURE

The fall of communism in Eastern Europe and the Soviet Union and the desire to bring about economic reforms have caused widespread unemployment, food shortages, and a race to find a better standard of living elsewhere. The States of destination of those seeking greener pastures cannot absorb the population movements. Germany took in 193,000 asylum seekers in 1990, almost half of the 420,000 in all of Western Europe, and was already host to 5.7 million legal aliens in its territory. Thousands of asylum-seekers, immigrants, and foreign workers have become the victims of verbal and physical attack in Germany.[107]

---

103. *See* Craig R. Whitney, *Moscow Rights Conference Sees Danger in Nationalism*, N.Y. TIMES, Sept 11, 1991, at A10.

104. 27 WEEKLY COMP. PRES. DOC. 1757 (Dec. 9, 1991).

105. Fiscal 1991 provided for a maximum of 50,000 Soviet refugees who could settle in the United States. President Bush authorized the admission of 61,000 Soviet refugees for fiscal year 1992. *See Bush Opens the Door to 142,000 Refugees*, N.Y. TIMES, Oct. 11, 1991, at A8.

Aside from Soviet emigration, the end of the cold war saw an increase in the travel to the United States of thousands of tourists, students, writers, businessmen, and athletes, and after the disintegration of the Soviet Union of government representatives from the republics. *See* Seth Mydans, *Seeking Shelter in U.S. After the Soviet Storm*, N.Y. TIMES, Jan. 25, 1992, at A1.

106. Clyde Haberman, *Israel Braces for Influx from Slavic Regions*, N.Y. TIMES, Dec. 12, 1991, at A8; Clyde Haberman, *Israelis Prepare a Mass Airlift of Immigrants*, N.Y. TIMES, Dec. 30, 1991, at A7.

The beginning of 1992 saw a dwindling of emigration from the Soviet Union to Israel than for comparable periods in the two previous years for a variety of reasons. *See* Alan Cowell, *Influx From Ex — Soviet Lands Falling, Israel Says*, N.Y. TIMES, Jan. 31, 1992, at A11; Clyde Haberman, *Freer Jews Face Harder Choice: To Leave or to Stay*, N.Y. TIMES, Feb. 10, 1992, at A10; Joel Greenberg, *No Milk or Honey for Israel's Emigres*, N.Y. TIMES, Mar. 1, 1992, at A8.

107. *See* Stephan Kinzer, *A Wave of Attacks on Foreigners Stirs Shock in Germany*, N.Y. TIMES, Oct. 1, 1991, at A1; Stephan Kinzer, *German Visits Refugees Amid New Attacks*, N.Y. TIMES, Oct. 5, 1991, at A5; Stephan Kinzer, *German Vote Raises Foreigners' Fear*, N.Y. TIMES, Oct. 8, 1991, at A14; Stephan Kinzer, *Germans Seek to Protect Foreigners*, N.Y. TIMES, Oct. 10, 1991, at A12; *Politicians Condemn Attacks on Foreigners; Seek*

To check the surge in illegal East-West migration, Berlin hosted a conference of the ministers of interior at the end of October 1991 with twenty-seven European nations in attendance. Although the German host said "[w]e do want freedom of movement and travel in the future, but that cannot mean the right of residence for everyone,"[108] more obstacles will be created in the path of the movement of persons across international boundaries. Already, German politicians have called for common European immigration policies[109] and a European asylum regulation.[110]

Faster Asylum Process, WEEK IN GERMANY, Oct. 11, 1991, p.1. Bower, *Germany Divided Over Attacks On Refugees*, 5 GEO. IMMIGR. L.J. 815 (1991).

108. *See* John Tagliabue, *Germany Wins Europe's Backing for Tougher Controls on Migrants*, N.Y. TIMES, Nov. 1, 1991, at A6.

109. *See* Stephan Kinzer, *Britain Unswayed on United Europe*, N.Y. TIMES, Nov. 12, 1991, at A15.

110. THE WEEK IN GERMANY, Nov. 22, 1991, at 1.