

ASSOCIATION - FREEDOM OF - GENERAL

IV. CONCLUDING OBSERVATIONS

CERD

- United Kingdom of Great Britain and Northern Ireland, CERD, A/48/18 (1993) 73 at paras. 416 and 421.

Paragraph 416

By not prohibiting the British National Party and other groups and organizations of a racist nature, and by allowing them to pursue their activities, the State party is failing to implement article 4, which calls for a condemnation of all organizations attempting to justify or promote racial hatred and discrimination. Additionally, in the light of the increase in the manifestation of racist ideas and of racially motivated attacks, the restrictive interpretation of article 4 violates the purpose and objective of the Convention and is incompatible with General Recommendation XV.

Paragraph 421

Effective legislative and other practical measures should be taken with a view to preventing incidents of incitement to racial hatred and racially motivated attacks; in particular, the causes of such attacks should be more accurately analysed; current efforts to encourage the recruitment into the police of members of ethnic minorities should be reinforced; and the activities of organizations of a racist nature should be prohibited and the dissemination of ideas based on racial hatred declared punishable by law.

- Germany, CERD, A/48/18 (1993) 81 at paras. 446 and 449.

Paragraph 446

In view of the serious nature of the manifestations of xenophobia, racism and racial discrimination in the State party, practical measures should be strengthened with a view to preventing such manifestations, particularly acts of violence on an ethnic basis, and to punishing those who committed them. Measures should be taken, in that regard, against the organizations and groups involved.

Paragraph 449

Appropriate measures should be strictly applied against extremist organizations disseminating ideas based on racial superiority or hatred and especially against persons and groups who are implicated in racially motivated crimes.

ASSOCIATION - FREEDOM OF - GENERAL

- Croatia, CERD, A/48/18 (1993) 90 at para. 505.

The obligation of the State party, under article 4 of the Convention is emphasized. Given the sensitive situation prevailing not only in the country but also in the region, condemnation, prohibition and prosecution should also extend to ultra-nationalist and extremist activities on ethnic grounds, such as the circulation of ethnic lists and the display of Nazi emblems or the holding of non-ethnic Croatians in secret prisons. At the same time, active and visible measures should be taken by authorities at all levels to promote inter-ethnic tolerance and understanding among the general public. To that end, the Government should encourage multi-ethnic organizations and movements and foster an ongoing dialogue among leaders and representatives of the various communities to ensure respect for the observance of human rights and the rights of the minority communities and their participation in the democratic process. By no means are trends for separation or secession encouraged.

- Yugoslavia (Serbia and Montenegro), CERD, A/48/18 (1993) 95 at para. 543.

In conformity with articles 2 and 4 of the Convention, the Government should prohibit racial discrimination and should urgently take vigorous steps to ban racist activities and propaganda. In that connection, it is vital that paramilitary groups be disbanded, reports of ethnically motivated attacks, including allegations of arbitrary arrests, disappearance and torture, be promptly investigated and those responsible be punished.

- Tunisia, CERD, A/49/18 (1994) 26 at para. 176.

Concern is expressed that the provisions of Organic Law No. 92-25 could be interpreted and applied in contradiction to the requirements of article (d) 5 (ix) of the Convention concerning the right to freedom of peaceful assembly and association.

- Sweden, CERD, A/49/18 (1994) 30 at para. 199.

It is noted with concern that legislative measures prohibiting racist organizations, namely those disseminating ideas of racial superiority or racial hatred, have not been introduced by the State party.

- Norway, CERD, A/49/18 (1994) 37 at para. 261.

It is reaffirmed that the provisions of article 4, paragraphs (a) and (b), are of a mandatory character as stated in general recommendation VII (32) of the Committee. These provisions have not been fully implemented in the State party; therefore, the State party should carry out each obligation under

ASSOCIATION - FREEDOM OF - GENERAL

those mandatory provisions of the Convention. When doing so, the Government should also take into account general recommendation XV (42) of the Committee.

See also:

- Sweden, CERD, A/49/18 (1994) 30 at para. 202.

- Canada, CERD, A/49/18 (1994) 47 at para. 329.

Measures should be undertaken to ban racist organizations.

- Sudan, CERD, A/49/18 (1994) 68 at para. 474.

The State party should take further steps to strengthen respect for human rights and non-discrimination, particularly by clearly defining and prohibiting racial discrimination in the law as well as penalizing racist activities, organizations and propaganda as required under article 4 of the Convention.

- Italy, CERD, A/50/18 (1995) 27 at para. 100.

The high proportion of young people in extremist groups involved in acts of racial violence and the support they are apparently able to secure from some political circles are matters of concern.

- Denmark, CERD, A/51/18 (1996) 17 at paras. 63, 70 and 74.

Paragraph 63

The high level of unemployment makes it even more important to counter the influence of groups propagating ideas of racial superiority and attempting to justify practices of racial discrimination.

Paragraph 70

It is noted with concern that only three convictions have been registered in the past six years against members of neo-Nazi groups. The recent granting of licences to such groups to operate a radio station and a telephone number to which people allegedly can call to hear a recorded message about why migrants and refugees should be deported is also noted with special concern.

Paragraph 74

ASSOCIATION - FREEDOM OF - GENERAL

If the allegations in paragraph 70 above are correct, then the licences should be withdrawn and prosecutions initiated to comply with article 4 of the Convention.

- Russian Federation, CERD, A/51/18 (1996) 25 at para. 150.

It is strongly recommended that the Government take concrete and appropriate measures to outlaw and combat all organizations and political groups and their respective activities that promote racist ideas or objectives, as referred to in article 4 of the Convention.

- Finland, CERD, A/51/18 (1996) 29 at para. 175.

The recent, significant increase in racially motivated acts and violence is a matter of deep concern. The persistence of publications, organizations and political parties which promote racist and xenophobic ideas is a further serious worry. It is regretted that there is no law which prohibits or punishes racist organizations for activities which promote and incite racial discrimination.

- Spain, CERD, A/51/18 (1996) 32 at para. 209.

Serious concern is expressed with regard to the status of neo-Nazi and other extreme-right organizations which spread racist ideas. It is regretted that it was not made clear whether such organizations could be registered and, if so, whether they could be dissolved on the sole ground that they spread racist ideas, or whether they are secret and, in this case, what the attitude of the authorities towards them is. It is doubtful that the State party fully implements article 4 (b) of the Convention.

- United Kingdom of Great Britain and Northern Ireland, CERD, A/51/18 (1996) 35 at para. 231.

Concern is expressed over the interpretation of article 4 as presented in the State party's interpretative statement regarding this article and reaffirmed in the thirteenth periodic report. Such an interpretation is not only in conflict with the established view of the Committee, but also amounts to a negation of the State Party's obligation under article 4 (b) of the Convention to outlaw and prohibit organizations which promote and incite racial discrimination.

- Bolivia, CERD, A/51/18 (1996) 41 at para. 276.

ASSOCIATION - FREEDOM OF - GENERAL

Attention is drawn to the fact that failure to take such action, as required under article 4, impairs the implementation of article 6 on the right to effective protection and remedy.

- United Kingdom of Great Britain and Northern Ireland, CERD, A/52/18 (1997) 9 at para. 34.

Special concern is expressed at the restrictive interpretation by the Government of the provisions of article 4 of the Convention, noting that such an interpretation is in conflict with the State party's obligations under article 4 (b) of the Convention to prohibit organizations which promote and incite racial discrimination and to declare the participation therein an offence.

- Bulgaria, CERD, A/52/18 (1997) 39 at para. 285.

Although the right to associate with and to found political parties is stated as a general principle in the Constitution, it is noted with concern that the State party prohibits the foundation and registration of political parties formed on ethnic, racial or religious bases.

- Denmark, CERD, A/52/18 (1997) 59 at para. 450.

Concern is expressed that the prosecuting practice is focussing too much on propaganda activities while other means of disseminating racist ideas are treated as minor offences; this gives a restrictive interpretation to the provisions of article 4. The lenient attitude towards the dissemination of racist ideas over the radio is also of concern. It is noted that organizations using racist propaganda to incite racial discrimination are not declared illegal and are not prohibited.

- Poland, CERD, A/52/18 (1997) 62 at para. 476.

The State party should take all measures required under the Convention to prohibit the existence of non-political groups and associations which disseminate ideas based on racial superiority or hatred or incitement to racial discrimination, as well as acts of violence or incitement to such acts against any race or group of persons.

- Sweden, CERD, A/52/18 (1997) 65 at para. 505.

Concern is expressed at the activities based on ideas or theories of racial superiority of various organizations and individuals in the State party, and at the increasing dissemination of recorded

ASSOCIATION - FREEDOM OF - GENERAL

music, the lyrics of which promote hatred against ethnic minorities.

- Argentina, CERD, A/52/18 (1997) 69 at para. 552.

The State party is urged to fulfil its obligation under article 4 of the Convention and declare as an offence punishable by law any form of racial discrimination, including dissemination of and propaganda for racist ideas, incitement to racial discrimination, racial violence and the establishment of racist organizations.

- Norway, CERD, A/52/18 (1997) 77 at paras. 606 and 607.

Paragraph 606

Concern is expressed that the State party has not taken all appropriate measures to prohibit organizations which promote and incite racial discrimination, in accordance with article 4 (b) of the Convention. The fact that a Norwegian political party promotes racial discrimination is a source of serious concern.

Paragraph 607

Concern is expressed over the publications of anti-immigrant racist organizations and over the fact that a radio station is systematically disseminating ideas of racial superiority. The view expressed openly by the leader of the above-mentioned political party that the Sami parliament should be dissolved is also a matter of concern.

- Russian Federation, CERD, A/53/18 (1998) 25 at para. 39.

Appropriate measures should be taken to outlaw and combat all organizations and political groups and their activities that promote racist ideas or objectives.

- The Netherlands, CERD, A/53/18 (1998) 33 at para. 102.

Concern is expressed over the dissemination of ideas of racial superiority and of intolerance by various organizations, political parties and individuals. More attention should be given to countering such activities.

- Czech Republic, CERD, A/53/18 (1998) 35 at para. 121.

ASSOCIATION - FREEDOM OF - GENERAL

It is noted with concern that a political party represented in Parliament promotes racial discrimination and disseminates a magazine which promotes racist propaganda and ideas of racial superiority aimed at the ethnic minorities resident in the country.

- Croatia, CERD, A/53/18 (1998) 59 at paras. 320 and 325.

Paragraph 320

Necessary legislative measures should be taken in order to declare illegal and prohibit organizations which promote and incite racial discrimination.

Paragraph 325

The State party should take concrete measures to guarantee freedom of association without distinction as to ethnic origin and to ensure that mass media, in all its forms, including electronic form, are open to all ethnic groups without distinction.

- Niger, CERD, A/53/18 (1998) 75 at para. 453.

Concern is expressed that the ambiguity in Order No. 84-6, which prohibit associations of a regional or ethnic nature, may also lead to the prohibition of cultural associations that have no involvement in acts of racial discrimination.

- Republic of Korea, CERD, A/54/18 (1999) 14 at para. 54.

The fact that neither the Constitution nor any law of the State party explicitly prohibits discrimination on the basis of race, colour, descent, or national or ethnic origin, and that no law contains provisions explicitly penalizing acts of racial discrimination or prohibiting organizations which promote and incite racial discrimination is of concern.

- Portugal, CERD, A/54/18 (1999) 17 at paras. 97 and 99.

Paragraph 97

While the State party prohibits racist organizations or organizations adhering to a fascist ideology, concern is expressed that article 4 of the Convention is not fully complied with, since the protection thus provided for by law does not cover the wide variety of racist organizations that may exist or develop.

ASSOCIATION - FREEDOM OF - GENERAL

Paragraph 99

Appropriate measures should be taken to prohibit all organizations and groups, whether or not of fascist ideology, which promote racist ideas or objectives, in order to ensure that article 4 of the Convention is fully complied with.

- Iraq, CERD, A/54/18 (1999) 35 at para. 350.

Provisions prohibiting the establishment of membership in any association, organization or body seeking to incite inter-communal conflict or provoke feelings of hatred and animosity among the population, do not fully reflect the requirements of article 4 of the Convention.

- Chile, CERD, A/54/18 (1999) 37 at para. 374.

While it is noted that intentional discrimination against indigenous persons is an offence punishable by law, and that the National Security Act prohibits fascist organizations, concern remains about the current absence of comprehensive legislation in full accordance with articles 2, paragraph 1 (d) and 4, of the Convention.

- Latvia, CERD, A/54/18 (1999) 39 at para. 394.

It is noted with concern that no case of dissemination of ideas of ethnic superiority or hatred, or of the use of defamatory language or of the advocacy of violence based on such ideas has been brought to justice, and that no organization involved in such activities has been prohibited, although the existence of such cases has been widely reported.

- Denmark, CERD, A/55/18 (2000) 22 at para. 64.

In light of article 4 of the Convention, activities of organizations which promote racial hatred and discrimination are of concern, especially the influence of Radio Oasen. Radio Oasen is owned by a neo-Nazi association whose licence was renewed by the Ministry of Culture and which receives financial support from the Government. It is recommended that the State party declare illegal and prohibit any organization which promotes and incites racial discrimination. Attention is called to General Recommendation No. XV in this regard.

ASSOCIATION - FREEDOM OF - GENERAL

- Malta, CERD, A/55/18 (2000) 29 at para. 125.

The fact that article 4 of the Convention is not fully covered by legislation is of concern. The State party should take into account all aspects of article 4 in the elaboration of new legislation and should review its declaration in relation to this article that was made upon ratification of the Convention.

- Zimbabwe, CERD, A/55/18 (2000) 38 at para. 197.

There is concern that the Prevention of Discrimination Act does not adequately address all the elements of article 4, particularly as regards the prohibition and criminalization of all organizations and propaganda activities that promote and incite racial discrimination. Additionally, there is concern that the inclusion of “the risk element” referred to in section 6 (1) of the Act weakens the text, whereas article 4 of the Convention does not limit or place conditions on the prohibition of racist statements.

- Finland, CERD, A/55/18 (2000) 41 at para. 212.

The Committee reiterates its concern over the absence of a law prohibiting organizations which promote and incite racial discrimination and of a provision in the Penal Code declaring any dissemination of ideas based on racial superiority or hatred punishable by law. The State party is urged to give due consideration in this respect to General Recommendation VII relating to the implementation of article 4 of the Convention. It is also recommended that the State party consider adopting provisions to increase the severity of sentences for racially motivated crimes, in particular racial violence.

- Slovakia, CERD, A/55/18 (2000) 47 at para. 261.

The persistence of acts of violence by groups, particularly “skinheads”, directed towards Roma and other ethnic minorities is of concern. Procedures should be strengthened for timely and thorough investigations and effective prosecutions of racist organizations. The State party is encouraged to expand throughout the State preventive programmes to curb racially motivated violence.

- Czech Republic, CERD, A/55/18 (2000) 50 at para. 281.

It is of concern that some organizations, including political parties, promoting racial hatred and superiority are hidden behind legally registered civic associations whose members are promoting xenophobia and racism. Concern is also expressed at the ineffective implementation of existing

ASSOCIATION - FREEDOM OF - GENERAL

legislation to prosecute those who incite racial hatred and support racist movements. In light of article 4 of the Convention, the State party should strengthen law enforcement to ensure that these organizations are dismantled and their members prosecuted.

- Sweden, CERD, A/55/18 (2000) 57 at para. 340.

In light of article 4 of the Convention, concern is expressed that existing legislation does not prohibit and penalize all organizations and propaganda activities that promote or incite racial hatred and discrimination. The State party should declare illegal and prohibit any organization which promotes or incites racial discrimination.

- United Kingdom of Great Britain and Northern Ireland, CERD, A/55/18 (2000) 60 at para. 356.

The Committee reiterates its concern regarding the State party's restrictive interpretation of the provisions of article 4 of the Convention. The Committee maintains that such an interpretation is in conflict with the State party's obligations under article 4 (b) of the Convention. According to General Recommendation XV, all provisions of article 4 are of a mandatory character and the prohibition of dissemination of racist ideas is compatible with the right to freedom of expression. The Committee adds further that the provisions of article 4 are of a preventive nature and that States where no organizations promoting and inciting racial discrimination hypothetically exist are nevertheless bound by those provisions.

- Norway, CERD, A/55/18 (2000) 67 at para. 415.

With respect to the implementation of article 4 of the Convention, it is noted that racist organizations have not been prohibited. The Committee reminds the State party that in its opinion, prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression.

- Georgia, CERD, A/56/18 (2001) 24 at para. 92.

Legislation currently in force does not fully cover the requirements of article 4 of the Convention. Concern is expressed at the absence of provisions explicitly banning the advocacy of national, racial and religious hatred that constitutes incitement to discrimination, as well as racist propaganda and organizations. The national legislation currently in force is not sufficient to comply with the requirements of article 4 (b), as the latter covers the offence of promoting and inciting racial

ASSOCIATION - FREEDOM OF - GENERAL

discrimination, which may fall short of "fomenting ethnic, local, religious or social strife" as provided for in article 5 (2) of the State party's law on political associations of citizens. It is emphasized that in the absence of the establishment of racial discrimination as a specific offence, it might not be punishable and would be difficult to prosecute. The State party should take steps to ensure that national legislation is in full conformity with article 4 of the Convention.

- Iceland, CERD, A/56/18 (2001) 32 at para. 153.

The State party should fully investigate the possible existence of associations advocating racial discrimination and take appropriate action under Section 233a of the General Penal Code and article 74 of the Constitution, as well as review such legislation if it proves insufficient in enforcing the provisions of article 4 of the Convention. The State party should ensure that the provisions of the Convention are fully reflected in existing legislation and should give further consideration to the possibility of giving the Convention legal force in the Icelandic legal system, as is the case for the European Convention on Human Rights.

- Japan, CERD, A/56/18 (2001) 34 at para. 169.

The reservation maintained by the State party with respect to article 4 (a) and (b) of the Convention states that "Japan fulfils the obligations under those provisions to the extent that fulfilment is compatible with the guarantee of the rights to freedom of assembly, association and expression and other rights under the Constitution of Japan." Such an interpretation is in conflict with the State party's obligations under article 4 of the Convention. The State party's attention is drawn to General Recommendations VII and XV, according to which article 4 is of a mandatory nature, given the non-self-executing character of all its provisions, and the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the rights to freedom of opinion and expression.

- Sudan, CERD, A/56/18 (2001) 40 at para. 211.

The Committee further reiterates its recommendations to the State party contained in its Decision 5(54) of 19 March 1999 (A/54/18, para. 21(5)), *inter alia*, to implement immediately effective measures to guarantee all Sudanese, without distinction based on race, colour, descent, or national or ethnic origin, freedom of religion, opinion, expression and association; the right to security of person and protection by the State against violence or bodily harm; the right to study and communicate in a chosen language, and the right to enjoy their own culture without interference.

ASSOCIATION - FREEDOM OF - GENERAL

- Italy, CERD, A/56/18 (2001) 53 at para. 312.

While noting that domestic legislation regarding article 4 of the Convention is appropriate and contains a comprehensive definition of racial discrimination, the Committee, concerned about allegations that racist organizations were not properly punished, requests the State party to examine thoroughly such allegations.

- Trinidad and Tobago, CERD, A/56/18 (2001) 58 at para. 349.

The absence of specific legislative, administrative and other measures implementing article 4 of the Convention, especially article 4 (b) prohibiting racist organizations is of concern. The opinion expressed by the delegation that criminalizing dissemination of ideas based on racial superiority or hatred, as well as racist organizations, could have adverse effects is noted, but the obligations of the State party in accordance with the Convention are underlined and the preventive role of such legislation is emphasized. In this connection, the attention of the State party is drawn to general recommendations VII and XV on the compatibility of the prohibition of the dissemination of ideas based upon racial superiority or hatred with the right to freedom of opinion and expression. The statement of the delegation that the State party is prepared to re-examine its position in accordance with its obligations under the Convention is welcomed, and the State party is urged to give due consideration to adopting the necessary legislation in compliance with article 4, particularly article 4 (b), of the Convention as a matter of priority.

ICCPR

- Mongolia, ICCPR, A/47/40 (1992) 134 at para. 601.

Concern is expressed over the unclear position of the Covenant in Mongolian law. Measures undertaken so far to give effect to the Covenant have not gone far enough in providing judicial guarantees for each right recognized in the Covenant or toward ensuring that the Covenant can be invoked by individuals in a court of law. Similarly, the continuing applicability of old laws and procedures, which have not yet been revoked or replaced by new legislation providing guarantees and, in particular, establishing recourse procedures, is of concern. In regard to a number of fundamental rights recognized in the Covenant, some requirements and limitations presently in force in Mongolian law are so broad and numerous as severely to restrict the effective exercise of such rights in actual practice. This is true, for example, in regard to the requirement of prior permission for the holding of public meetings and the criteria for refusing such meetings; and the requirement that political parties be registered and the criteria for refusing registration. Additionally, the absence of adequate mechanisms to appeal against administrative decisions creates an uncertainty as to whether

ASSOCIATION - FREEDOM OF - GENERAL

such fundamental rights as freedom of association, freedom of assembly and freedom of movement are fully enjoyed in actual practice.

- Islamic Republic of Iran, ICCPR, A/48/40 vol. I (1993) 44 at para. 262.

The extent of limitations to the freedom of expression, assembly and association is of concern. In this connection, contrary to the provisions of articles 18 and 19 of the Covenant, members of certain political parties who did not agree with what the authorities believe to be Islamic thinking or who expressed opinions in opposition to official positions have been discriminated against. Self-censorship also seems to be widespread in the media and severe limitations appear to have been placed upon the exercise of freedom of assembly and of association.

- Egypt, ICCPR, A/48/40 vol. I (1993) 139 at para. 709.

The restrictive legal provisions existing in Egypt with regard to freedom of thought, conscience, religion, assembly and association are of concern. Restrictions not in conformity with article 18 of the Covenant regarding various religious communities or sects, such as Bahai's, are a matter of particular concern.

- Mexico, ICCPR, A/49/40 vol. I (1994), 33 at para. 175.

The conditions in which the rights provided for in articles 21 and 22 of the Covenant are exercised, as evidenced by the severe repression of peaceful demonstrations by striking workers, are of concern.

- Cameroon, ICCPR, A/49/40 vol. I (1994) 36 at para. 197.

Regret is expressed at the difficulties encountered by workers in exercising freely and peacefully their rights under articles 21 and 22 of the Covenant.

- Togo, ICCPR, A/49/40 vol. I (1994) 44 at para. 256.

The restrictive conditions in which the rights provided for in articles 21 and 22 of the Covenant are to be exercised are noted with concern, and the severe repression of peaceful demonstrations during the period under review, involving loss of life which has not been fully investigated, is deplored.

ASSOCIATION - FREEDOM OF - GENERAL

- Sri Lanka, ICCPR, A/50/40 vol. I (1995) 75 at para. 458.

It is noted that the workers employed in the free trade zones, 80 per cent of whom are women, are unable, in practice, to enjoy fully the rights set forth in articles 21 and 22 of the Covenant.

- United Kingdom of Great Britain and Northern Ireland (Hong Kong), ICCPR, A/51/40 vol. I (1996) 13 at para. 71.

Immediate steps should be taken to ensure that the electoral system conforms with articles 21, 22 and 25 of the Covenant.

- Estonia, ICCPR, A/51/40 vol. I (1996) 19 at para. 120.

Concern is expressed at limitations to the exercise of freedom of association for long-term permanent residents in Estonia, particularly in the political sphere.

- Nigeria, ICCPR, A/51/40 vol. I (1996) 37 at para. 289.

The arrest and detention of officers of human rights organizations, involving violations of articles 9 and 22 of the Covenant and interfering with the free exercise of the significant role played by such organizations in the protection of human rights, is of concern.

- Peru, ICCPR, A/52/40 vol. I (1997) 28 at para. 168.

The necessary legislation should be adopted to allow political parties to operate effectively and democratically and fully to implement the rights protected by articles 22 and 25 of the Covenant.

- Bolivia, ICCPR, A/52/40 vol. I (1997) 35 at para. 206.

Members of various social sectors, particularly human rights activists and members of trade unions, are subject to intimidation, and thus face serious obstacles in the legitimate exercise of their rights.

- Colombia, ICCPR, A/52/40 vol. I (1997) 44 at para. 296.

Special measures should be adopted, including protective measures, to ensure that members of

ASSOCIATION - FREEDOM OF - GENERAL

various social sectors, particularly journalists, human rights activists, trade union and political leaders, teachers, members of indigenous populations and judges, are able to exercise their rights and freedoms, including freedom of expression, assembly and association, without intimidation of any sort.

- Lebanon, ICCPR, A/52/40 vol. I (1997) 53 at paras. 357 and 358.

Paragraph 357

While legislation governing the incorporation and status of associations is on its face compatible with article 22 of the Covenant, *de facto* State party practice has restricted the right to freedom of association through a process of prior licensing and control. The Committee also regrets that civil servants continue to be denied the right to form associations and to bargain collectively, in violation of article 22 of the Covenant.

Paragraph 358

The State party should ensure that the competent authorities adhere scrupulously to the provisions of the Statute on Incorporation of Associations. Furthermore, the Government should review and ultimately lift its ban on the establishment of associations by civil servants.

- Slovakia, ICCPR, A/52/40 vol. I (1997) 58 at para. 382.

The Committee notes that Act No. 308/1991 Coll. on freedom of religion and the status of churches and religious societies and Acts No. 83/1990 Coll., 300/1990 Coll. and 62/1993 Coll. on the association of citizens require that churches, religious societies, associations and non-governmental organizations be registered in order to function freely and/or to receive subsidies from the State. Given that prerequisites to this registration are very restrictive, some churches and religious or other associations are excluded from being legally recognized. Therefore, the Committee recommends that all necessary measures be adopted in order to amend the relevant legislation so as to bring it into conformity with articles 18 and 22 of the Covenant.

- Iraq, ICCPR, A/53/40 vol. I (1998) 18 at para. 105.

The severe restrictions on the right to express opposition to or criticism of the Government or its policies are of concern. Concern is also expressed over the law which imposes life imprisonment and, in certain cases, death for insulting the President of the Republic. It also imposes severe punishments for vaguely defined crimes which are open to wide interpretation by the authorities, such as writings detrimental to the President. Such restrictions on freedom of expression, which effectively prevent the discussion of ideas or the operation of political parties in opposition to the ruling Ba'ath party,

ASSOCIATION - FREEDOM OF - GENERAL

constitute a violation of articles 6 and 19 of the Covenant and impede the implementation of articles 21 and 22 of the Covenant, which protect the rights to freedom of peaceful assembly and association. Therefore, penal laws and decrees which impose restrictions on the rights to freedom of expression, peaceful assembly and association should be amended so as to comply with articles 19, 21 and 22 of the Covenant.

- Sudan, ICCPR, A/53/40 vol. I (1998) 22 at para. 130.

Unnecessary restrictions to freedom of expression and association should be removed.

- Belarus, ICCPR, A/53/40 vol. I (1998) 26 at para. 155.

The difficulties arising from the registration procedures to which non-governmental organizations and trade unions are subjected are of concern. The reported cases of intimidation and harassment of human rights activists by the authorities, including their arrest and the closure of the offices of certain non-governmental organizations are of concern. In this regard, the Committee, reiterating that the free functioning of non-governmental organizations is essential for protection of human rights and dissemination of information in regard to human rights among the people, recommends that laws, regulations and administrative practices relating to their registration and activities be reviewed without delay in order that their establishment and free operation may be facilitated in accordance with article 22 of the Covenant.

- Lithuania, ICCPR, A/53/40 vol. I (1998) 30 at para. 177.

It is of concern that associations or organizations must comply with registration requirements in order to operate in Lithuania, and that there are overly broad prohibitions on their activities. Therefore, it is recommended that limitations on the operation of associations and organizations not exceed those permitted under article 22 of the Covenant.

- Algeria, ICCPR, A/53/40 vol. I (1998) 52 at para. 365.

The State party's restriction on the right to form political parties effectively prohibits political activists' rights to associate with one another or to vote for representatives of their choice, in view of the wide range of proscribed categories (religious, linguistic, racial, gender related, regional, corporatist). Since taking effect, this law has been invoked to ban or prevent the legalization of more than 30 parties. Current legislation should be amended to bring it into conformity with the conditions required by the Covenant with respect to restrictions on the freedom of association.

ASSOCIATION - FREEDOM OF - GENERAL

- United Republic of Tanzania, ICCPR, A/53/40 vol. I (1998) 57 at para. 393.

The Nyalali Commission recommended that registration of societies under the Societies Ordinance 1954 be amended to provide for a separate Registrar and for appeal from his decisions (articles 18 and 22). Priority should be given to implementing the proposed reforms.

- Japan, ICCPR, A/54/40 vol. I (1999) 36 at para. 169.

The Committee is deeply concerned at many aspects of the prison system in Japan which raise serious questions of compliance with articles 2, paragraph 3 (a), 7 and 10 of the Covenant, including: harsh rules of conduct in prisons that restrict the fundamental rights of prisoners, including freedom of speech, freedom of association and privacy.

- Costa Rica, ICCPR, A/54/40 vol. I (1999) 54 at para. 286.

Freedom of association, including the right to collective bargaining, should be guaranteed to all individuals. Labour legislation should be reviewed and, where necessary, reformed to introduce measures of protection against reprisals for attempts to form associations and trade unions and to ensure that workers have access to speedy and effective remedies.

- Kuwait, ICCPR, A/55/40 vol. I (2000) 65 at paras. 489, 490 and 494.

Paragraph 489

Kuwait's legislation on associations, in particular Law No. 24 of 1962 on the Organization of Clubs and Community Service Societies, and the difficulties encountered by Kuwaitis in exercising their rights under article 22 of the Covenant are of concern. In particular, the Kuwaiti Society for Human Rights has not been able to register as an association since 1992.

Paragraph 490

The State party should amend Law No. 24, encourage the formation of human rights non-governmental organizations in Kuwait and further their activities so as to enable a culture of human rights to flourish and expand.

Paragraph 494

Bearing in mind that political parties constitute an important component of democracy, the State party should take appropriate measures so as to ensure the right of Kuwaitis to establish such parties, in conformity with articles 22 and 25 of the Covenant.

ASSOCIATION - FREEDOM OF - GENERAL

- Dominican Republic, ICCPR, A/56/40 vol. I (2001) 54 at para. 78(17).

The State party should give priority to addressing the issue of the working and living conditions of Haitian workers, and ensure that those workers can take advantage of the rights and safeguards laid down in articles 8, 17 and 22 of the Covenant.

- Uzbekistan, ICCPR, A/56/40 vol. I (2001) 59 at paras. 79(22) - 79(24).

Paragraph 79(22)

The State party should take the necessary steps to enable the national non-governmental human rights organisations to function effectively. The State party should engage in intensive dialogue with these organisations on the situation in the country to improve the setting in which the respect for human rights can be ensured (article 2 of the Covenant).

Paragraph 79(23)

Excessively restrictive provisions of Uzbek law with respect to the registration of political parties (article 6 of the Constitution, Political Parties Act of 1991) as public associations, by the Ministry of Justice, are of deep concern. This requirement could easily be used to silence political movements opposed to the government in violation of articles 19, 22 and 25 of the Covenant. A revision of the relevant part of the State party's legislation is strongly recommended, to ensure that registration is not used to limit the rights of association guaranteed by the Covenant.

Paragraph 79(24)

Provisions of the Freedom of Conscience and Religion Organisations Act that require religious organisations and associations to be registered to be entitled to manifest their religion and beliefs are of concern. Also of concern is article 240 of the Penal Code, which penalizes the failure of leaders of religious organisations to register their statutes. It is strongly recommended that the State party abolish the said provisions, which are not in conformity with the provisions of article 18, paragraph 1 and 3, of the Covenant. Criminal procedures initiated on the basis of these provisions should be discontinued and convicted persons pardoned and compensated.

- Croatia, ICCPR, A/56/40 vol. I (2001) 65 at para. 80(18).

The delegation's concession that its law on association, which was prepared at the time the State party was engaged in armed conflict, fails to provide for full freedom of association as guaranteed under article 22 of the Covenant, is acknowledged. In light of the Constitutional Court's judgment holding unconstitutional a variety of provisions in the Act, the time is particularly appropriate to adopt a new comprehensive code providing to persons within the State party's jurisdiction full and comprehensive

ASSOCIATION - FREEDOM OF - GENERAL

rights to freedom of association. The process of developing a new Law on Association is underway. The State party should proceed, as a matter of priority, with the enactment of the draft law to give full effect to its obligations under article 22 of the Covenant.

- Syrian Arab Republic, ICCPR, A/56/40 vol. I (2001) 70 at para. 81(26).

With respect to the right to freedom of association, concern remains at the absence of specific legislation on political parties and at the fact that only political parties wishing to participate in the political activities of the National Progressive Front, led by the Baath party, are allowed. The restrictions that can be placed on the establishment of private associations and institutions, including independent non-governmental organizations and human rights organizations are also of concern. The State party should ensure that the proposed law on political parties is compatible with the provisions of the Covenant. It should also ensure that the implementation of the Private Associations and Institutions Act No. 93 of 1958 is in full conformity with articles 22 and 25 of the Covenant.

- Monaco, ICCPR, A/56/40 vol. I (2001) 89 at para. 84(17).

The special status of Monegasques, who are in a numerical minority in the Principality of Monaco, is noted, and attention is drawn to the distinction made in law between Monegasques and non-Monegasques, particularly in the area of employment and where the exercise of the freedoms of association and assembly is concerned (articles 21, 22 and 26 of the Covenant). The State party should ensure that such distinctions, which in certain cases and circumstances may justify differences in treatment based on objective and reasonable criteria, do not take the form of discrimination.

ICESCR

- Egypt, ICESCR, E/2001/22 (2000) 38 at paras. 161 and 176.

Paragraph 161

Deep concern is expressed about law 153 of 1999 (Law on Civil Associations and Institutions, popularly called the "NGO Law") which does not conform to article 8 of the Covenant and contradicts article 55 of the 1971 Egyptian Constitution affirming the right of citizens to form associations, and gives the Government control over the right of NGOs to manage their own activities, including seeking external funding.

Paragraph 176

The State party is called upon, in accordance with its obligations under article 8 of the Covenant and

ASSOCIATION - FREEDOM OF - GENERAL

the Constitution of Egypt, which affirms the right of citizens to form their own organizations, to amend or repeal law 153.

- Sudan, ICESCR, E/2001/22 (2000) 57 at para. 310.

Concern is expressed that some restrictions on the freedoms of religion, expression and association and peaceful assembly still exist, thereby hampering the enjoyment of economic, social and cultural rights by many Sudanese.

- Belgium, ICESCR, E/2001/22 (2000) 77 at paras. 471 and 482.

Paragraph 471

It is of deep concern that there is no specific legislation which outlaws acts of xenophobia and racism, and in particular the activities of right-wing racist political parties, which are increasingly present on the political scene, especially in Flanders.

Paragraph 482

The State party should adopt measures to ensure that xenophobia, racism and activities of racist organizations, groups or political parties are outlawed, with a view to complying with the principle of non-discrimination, set forth in article 2.2 of the Covenant.

CEDAW

- The Netherlands, CEDAW, A/56/38 part II (2001) 63 at para. 206.

The Government is urged to eliminate xenophobia and racism by strengthening its efforts to combat the activities of racist and xenophobic groups based in the country.

CAT

- Finland, CAT, A/55/44 (2000) 12 at para. 55.

In order to reinforce the Convention's objectives to ensure the proper investigation of incidents which may amount to a breach of Article 16 of the Convention, the State party should declare illegal and prohibit organizations which promote and incite racial discrimination, as well as the dissemination of ideas based on racial superiority or hatred.

ASSOCIATION - FREEDOM OF - GENERAL

CRC

- Spain, CRC, CRC/C/34 (1994) 27 at para. 148.

Legal amendments should be considered in order to ensure the right to participation of children, including the right to freedom of association and to freedom of peaceful assembly.

- Republic of Korea, CRC, CRC/C/50 (1996) 26 at paras. 163 and 175.

Paragraph 163

Insufficient measures have been adopted, including those of a legal nature, to ensure effective implementation of the civil rights and fundamental freedoms of children (such as in relation to the right to a nationality, freedom of expression, thought, conscience and religion, as well as to freedom of association and peaceful assembly). The threats to national security invoked by the Government have hampered the enjoyment of such fundamental freedoms.

Paragraph 175

Greater efforts should be made to promote the participation of children in family, school and social life, as well as the effective enjoyment of their fundamental freedoms, including the freedom of opinion, expression and association, which should be subject only to the restrictions provided by the law and which are necessary in a democratic society.

- Myanmar, CRC, CRC/C/62 (1997) 25 at paras. 150 and 171.

Paragraph 150

Deep concern is expressed with regard to the right of children to freedom of speech, association and peaceful assembly.

Paragraph 171

An alternative education choice to non-Buddhist and poor children should be given and all measures should be taken to fully guarantee the freedoms of association and speech as well as the right to peaceful assembly.

- Hungary, CRC, CRC/C/79 (1998) 7 at para. 40.

The insufficient measures undertaken to promote children's right to participation within the family,

ASSOCIATION - FREEDOM OF - GENERAL

at school and in society in general, and the restriction to the right of freedom of association, since there is no registry of associations managed by children, are of concern.

- Honduras, CRC, CRC/C/87 (1999) 26 at para. 117.

The insufficient development of children's participatory rights remains a concern. Further measures, including legislative reform, should be undertaken to promote the participation of children in the family, school and social life, as well as the effective enjoyment of their fundamental freedoms, including the freedoms of opinion, expression and association.

- Nicaragua, CRC, CRC/C/87 (1999) 54 at para. 231.

Concern remains over the fact that participatory rights of children have not been sufficiently addressed. Further measures, including legislative reform, should be undertaken to promote the participation of children in the family, the school and other institutions and social life, as well as the effective enjoyment of their fundamental freedoms, including the freedom of opinion, expression, and association.

See also:

- Cambodia, CRC, CRC/C/97 (2000) 64 at paras. 363 and 364.
- Comoros, CRC, CRC/C/100 (2000) 110 at para. 622.

- Georgia, CRC, CRC/C/97 (2000) 18 at paras. 106 and 107.

Paragraph 106

It is noted with concern that the law prohibits youth from becoming members of political parties and that this prohibition limits the opportunity for youth to learn about the political process, delays their preparation for political leadership, and denies their full right to freedom of association.

Paragraph 107

In light of article 15 of the Convention, legislation should be amended to ensure that youth are allowed to join political parties and that they fully enjoy their right to freedom of association.

- Kyrgyzstan, CRC, CRC/C/97 (2000) 51 at paras. 298 and 299.

Paragraph 298

ASSOCIATION - FREEDOM OF - GENERAL

Concern is expressed that persons under 18 are restricted in their freedom of association.

Paragraph 299

It should be ensured that any restrictions that are imposed comply strictly with limitations that are in accordance with article 15, paragraph 2, of the Convention and are “imposed in conformity with the law and ... are necessary in a democratic society in the interests of national security or public safety, public order, the protection of health or morals or the protection of the rights and freedoms of others”.

- Malta, CRC, CRC/C/97 (2000) 75 at paras. 424 and 425.

Paragraph 424

With regard to children’s participatory rights, concern is expressed about the insufficient measures taken by the State party, especially to promote the participation of children in the family, in the community, at schools and other social institutions, and to ensure the effective enjoyment of their fundamental freedoms.

Paragraph 425

In light of articles 12-17 of the Convention, further measures should be taken to promote the participation of children in the family, at school and other institutions, and the effective enjoyment of their fundamental freedoms, including the freedoms of opinion, expression, and association.

See also:

- Mexico, CRC, CRC/C/90 (1999) 34 at para. 181.
- Peru, CRC, CRC/C/94 (2000) 64 at para. 373.

- Egypt, CRC, CRC/C/103 (2001) 36 at para. 209.

The important role civil society plays as a partner in implementing the provisions of the Convention is emphasized, including with respect to civil rights and freedoms. The State party should consider a systematic approach to involving civil society, especially children’s associations and advocacy groups, throughout all stages of the implementation of the Convention, including policy-making. In this regard, the State party should ensure that legislation regulating NGOs conforms to international standards on freedom of association, as a step in facilitating and strengthening their participation.

- Turkey, CRC, CRC/C/108 (2001) 18 at paras. 117 and 118.

ASSOCIATION - FREEDOM OF - GENERAL

Paragraph 117

Concern is expressed that persons under 18 cannot join associations, including trade unions and non-governmental organizations. It is also noted with great concern that article 13 of the Turkish Civil Code of 1926, stating that children “shall not be entitled to exercise civil rights”, does not conform with the Convention.

Paragraph 118

In light of articles 13 and 15 of the Convention, the State party should ensure that children can form, join and leave associations freely and, in particular, that young persons who have reached the legal age for being employed can form, join and leave trade unions freely. The State party is further encouraged to consider reviewing its legislation in order to guarantee to children their civil rights and freedoms in accordance with the Convention.

- Bhutan, CRC, CRC/C/108 (2001) 85 at para. 439.

the State party should consider a systematic approach to involving civil society, especially children’s associations, throughout all stages of the implementation of the Convention, including with respect to civil rights and freedoms. Legislation regulating NGOs should conform to international standards on freedom of association, as a step in facilitating and strengthening their participation.