

EXPRESSION - FREEDOM OF - HATE SPEECH AND LIMITS ON PROPAGANDA

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 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 should be declared punishable by law.

- Germany, CERD, A/48/18 (1993) 81 at para. 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.

- Croatia, CERD, A/48/18 (1993) 90 at paras. 499 and 505.

Paragraph 499

The circulation in the State party of ethnic lists of persons considered non-Croatian in origin, which were used for discriminatory purposes, particularly concerning employment opportunities, is of concern. Deep concern is also expressed over the reported use of Nazi insignia, in particular by elements of the army.

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Paragraph 505

The obligation of the State party, under article 4 of the Convention to condemn racist activities, organizations and propaganda and to make such offences punishable by law, 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 Croats 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 this 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 punished. The importance of providing proper training in human rights norms for law enforcement officials in accordance with General Recommendation XIII is emphasized, as is the ensuring of equitable representation among their ranks of national minorities.

- Sweden, CERD, A/49/18 (1994) 30 at paras. 197 and 199.

Paragraph 197

Concern is expressed at the manifestations of xenophobia and racism occurring. In this connection, it is underlined that persons holding or carrying out functions in the public or political spheres should not be permitted to contribute to expressions of racism and xenophobia.

Paragraph 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.

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- 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 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.

- 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.

- Cyprus, CERD, A/50/18 (1995) 23 at para. 71.

While welcoming the enactment of Law 11 of 1992, which created offences regarding acts amounting to racial discrimination, a question is raised about whether the wording of certain passages in section 2A meet completely the requirements of article 4 (a) of the Convention.

- Croatia, CERD, A/50/18 (1995) 36 at paras. 172 and 178.

Paragraph 172

Concern is expressed regarding the influence of the mass media in aggravating ethnic tension and the failure of the State to investigate and prosecute a number of incidents of promotion by elements of the print media of hatred directed against ethnic Serbs.

Paragraph 178

As a matter of urgency, the State party should comply with article 4 of the Convention and prohibit and prosecute all incitement to ethnic hatred in the media and elsewhere.

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- Yugoslavia (Serbia and Montenegro), CERD, A/50/18 (1995) 48 at paras. 239 and 244.

Paragraph 239

Note is taken with profound concern of the large part which the media continue to play in the propagation of racial and ethnic hatred. Given the very tight State control over the media this propagation of hatred may be attributed to the State. It is further noted that the State party fails to take adequate action to either prosecute perpetrators of such acts or to attempt to redress injustices. It also fails to take action to counter the propagation of prejudice against non-Serbians through education of the population in tolerance.

Paragraph 244

The immediate drafting and implementation of legislation, with a view towards the outlawing of every manifestation of racial discrimination and the full implementation of the Convention, is recommended. Particular attention should be paid to the legal regulation of matters such as the media and freedom of expression, employment and trade unions, the education system and the health-care system.

- Romania, CERD, A/50/18 (1995) 53 at paras. 269 and 272.

Paragraph 269

The legal provisions that prohibit speech which encourages racism or incites violence are believed to be constructive.

Paragraph 272

While the State party's new legal framework prohibits manifestations of racism, including acts of violence, the propagation of racist speech, and discriminatory employment practices, the extent to which the legal prohibition of such acts is translated into effective prohibition is unclear. Once such acts occur, it is not evident what remedies are available to victims and whether and how it is ensured that the guilty parties are prosecuted in an adequate and timely manner. It is noted in this connection that, with regard to the violence on 20 September 1993, which resulted in the death of three members of the Roma and the destruction of the homes of 170 others, victims have yet to receive compensation or have their homes reconstructed.

- Denmark, CERD, A/51/18 (1996) 17 at paras. 62, 63, 70 and 74.

Paragraph 62

Noting the judgement of the European Court of Human Rights in the case of *Jersile v. Denmark* (36/1993/431/510), it is affirmed that the "due regard" clause of article 4 of the Convention requires due balancing of the right to protection from racial discrimination against the right to freedom of

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expression.

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, although instructions have been issued to prosecutors. 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

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.

- Hungary, CERD, A/51/18 (1996) 22 at para. 116.

Grave concern is expressed at the persistence of expressions of racial hatred and acts of violence, particularly those by neo-Nazi skinheads and others, towards persons belonging to minorities, especially Gypsies, Jews and people of African or Asian origin. Alarm is expressed that the Government has not been sufficiently active in effectively countering incidents of racial violence. In this regard, concern is expressed that the number of charges and convictions, including against neo-Nazi skinheads and others, is low relative to the number of abuses reported.

- 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, and it is regretted that there is no law which prohibits

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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 were secret and, in that case, what the attitude of the authorities towards them was. It is doubtful whether Spain fully implements article 4 (b) of the Convention.

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

Deep concern is expressed over the lack of legislative provisions classifying as an offence punishable by law, the dissemination of ideas based on racial superiority or hatred. 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.

- Luxembourg, CERD, A/52/18 (1997) 22 at para. 140.

The Penal Code should be amended with a view to introducing stronger penalties for acts of slander and/or defamation of a racial character.

- Germany, CERD, A/52/18 (1997) 25 at para. 157.

The prohibition of the production and distribution of neo-Nazi literature and the severe punishment of persons found guilty of incitement to racial hatred have no doubt contributed to improvements in the State party. There has also been a noticeable decline in the number of persons belonging to extremist organizations, several of which have been banned. In this context, the Committee is pleased that legislative measures have been adopted that fulfill the requirements of article 4 of the Convention.

- Belgium, CERD, A/52/18 (1997) 31 at paras. 217, 218 and 226.

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Paragraph 217

The Act of 23 March 1995 prohibiting the denial, minimization, justification or approval of the genocide committed by the German national socialist regime during the Second World War, is noted. Concern is expressed however, that the scope of that Act, which does not refer to all types of genocide, is too restricted.

Paragraph 218

Serious concern is expressed at case law which interprets as a press offence any written material containing a criminal expression which is printed, reproduced and distributed. It is a matter of concern that legislation, which tends to apply severer sanctions to acts inspired by racism and xenophobia, is not implemented in this connection.

Paragraph 226

Adjustments should be made to the Constitution and the laws to permit more effective criminal prosecution of racist, negatory or discriminatory writings. The Act which prohibits the denial, minimization, justification or approval of the genocide committed by the German national socialist regime during the Second World War, should be broadened to cover the different types of genocide. Dissatisfaction is expressed with the replacement of the concept of "national or ethnic origin" by the concepts of "origin" or "nationality" . An amendment should be made keeping with the terms used in article 1, paragraph 1, of the Convention.

- Bulgaria, CERD, A/52/18 (1997) 39 at para. 283.

Concern is expressed at the insufficiency of the measures taken to guarantee the rights and freedoms of citizens and their integration into society regardless of race, nationality or ethnic origin. In this connection, the persistence of expressions of racial hatred and acts of violence, particularly by neo-Nazi skinheads and others, towards persons belonging to minorities, is of concern. Alarm is expressed that the State party has not been sufficiently active in effectively countering incidents of racial violence against members of minority groups and that the police and prosecutors seem to have failed to investigate acts of violence promptly and effectively. In addition, concern is expressed at information that the number of charges and convictions is low relative to the number of abuses reported. Concern is also expressed that acts of propagating and instigating racial and nationalistic hatred, and the perpetrators of such crimes against ethnic minorities, are not considered to pose a significant danger to the public order.

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

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Concern is expressed that the prosecuting practice is focusing 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 also 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 music, the lyrics of which promote hatred against ethnic minorities.

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

The State party should 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 para. 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 a political party that the Sami parliament should be dissolved is also a matter of concern.

- Switzerland, CERD, A/53/18 (1997) 28 at para. 59.

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Incidents of xenophobia, anti-Semitism, racial discrimination and racial violence occurring in the State party as well as the dissemination of racist and xenophobic ideas are of concern.

- 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 and to investigating and prosecuting discrimination cases more actively and effectively.

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

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.

- Cambodia, CERD, A/53/18 (1998) 55 at para. 291.

The situation of ethnic Vietnamese is a matter of concern, in particular, with regard to equality of rights. Ethnic Vietnamese are subject to racist propaganda, mainly from the Khmer Rouge, which may incite hatred against them. Concern is further expressed about reports of racist attitudes among much of the Khmer population against the Cambodian-born ethnic Vietnamese, who are still perceived as immigrants.

- Croatia, CERD, A/53/18 (1998) 59 at paras. 314, 318, 320 and 325.

Paragraph 314

With respect to article 4 of the Convention, concern is expressed at incidents of hate-speech directed at the Serb minority in Croat media, and the failure of the State party to take adequate measures to investigate and prosecute those responsible for promoting hatred and ethnic tension through print and audio-visual media.

Paragraph 318

With respect to article 7 of the Convention, concern is expressed that strong control is exercised by the Government over certain mass media, particularly television, and that some graphic media are allowed to use discriminatory speech.

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Paragraph 320

All necessary legislative measures should be taken in order to declare illegal and prohibit organizations which promote and incite racial discrimination. The State party should also take measures against the use of mass media for incitement to ethnic hatred. In this respect, all acts of incitement to ethnic hatred should be prohibited and prosecuted.

Paragraph 325

The State party should take concrete measures to guarantee freedom of association without distinction as to ethnic origin and ensure that mass media, in all their forms, including electronic form, are open to all ethnic groups without distinction. Furthermore, the State party should take effective measures in order to stop racist and discriminatory speech in some graphic media.

- Niger, CERD, A/53/18 (1998) 75 at para. 452.

Concern is expressed over the fact that while any act of racial or ethnic discrimination is punishable by law, the dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination and acts of violence and provocation of or assistance in racist acts are not explicitly prohibited by law within the meaning of the Convention.

- Austria, CERD, A/54/18 (1999) 13 at para. 33.

The fact that the condemnation of racist propaganda and incitement to racial hostility is qualified by a reference to public peace is of concern. Concern is also expressed about the number of reported incidents of xenophobia and racial discrimination, including acts of anti-Semitism and hostility against certain ethnic groups.

- 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.

- Romania, CERD, A/54/18 (1999) 30 at para. 285.

The State party should take measures to prevent and punish racist practices in the mass media. In

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addition, adequate means should be found to ensure that the media constitute an instrument that helps to combat racial prejudice, particularly against the Roma, and fosters a climate of understanding and acceptance among the various groups which make up the country's population.

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

Although the Penal Code contains provisions prohibiting the establishment or membership of any association, organization or body seeking to incite inter-communal conflict or provoke feelings of hatred and animosity among the population, such provisions 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, although the State party has adopted new legislation with respect to article 4 of the Convention, no case of dissemination of ideas of ethnic superiority or hatred, or of the use of defamatory language or the advocacy of violence based on such ideas, has been brought to justice and no organization involved in such activities has been prohibited, even though the existence of such cases has been widely reported.

- Australia, CERD, A/55/18 (2000) 17 at para. 37.

The adoption of the Racial Hatred Act 1995 which has introduced a civil law prohibition of offensive, insulting, humiliating or intimidating behaviour based on race is acknowledged. It is recommended that the State party continue its efforts to adopt appropriate legislation with a view to giving full effect to the provisions of, and withdrawing its reservation to, article 4 (a) of the Convention.

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

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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.

- 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 the new legislation and to review its declaration in relation to this article, 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. The State party should also consider adopting provisions to increase the severity of sentences for racially motivated crimes, in particular racial violence.

- Mauritius, CERD, A/55/18 (2000) 43 at para. 229.

The State party is reminded that the existence of constitutional and legislative provisions prohibiting

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racial discrimination and incitement to racial hatred and the absence of judicial decisions relating to such acts does not mean that there is no racial discrimination in society. It is therefore essential to inform the public of the existence of such legal provisions.

- 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 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 paras. 335 and 340.

Paragraph 335

Concern is expressed about the recent upsurge in racism and xenophobia which has given rise to increased neo-Nazi violence, especially among youth. The increasing popularity of “white power” music which promotes hatred against ethnic minorities is noted with concern. The State party is encouraged to continue its efforts to arrest the upsurge in racism and xenophobia, prevent and punish racist neo-Nazi violence and prosecute any person whose actions incite racial hatred.

Paragraph 340

In light of article 4 of the Convention, it is of concern that existing legislation does not prohibit and penalize all organizations and propaganda activities that promote or incite racial hatred and discrimination. It is recommended that the State party 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 restrictive interpretation by the State party of the provisions of article 4 of the Convention and 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. Further, the provisions of article 4 are of a preventive nature and States parties in whose territories no

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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.

Concern is expressed that the 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 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. 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 paras. 168, 169 and 171.

Paragraph 168

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Concern is expressed that the only provision in the legislation of the State party relevant to the Convention is article 14 of the Constitution. Taking into account the fact that the Convention is not self-executory, it is necessary to adopt specific legislation to outlaw racial discrimination, in particular in conformity with the provisions of articles 4 and 5 of the Convention.

Paragraph 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.

Paragraph 171

Discriminatory statements made by high-level public officials are noted with concern. Concern is particularly expressed about the lack of administrative or legal action taken by the authorities in violation of article 4(c) of the Convention, and the interpretation that such acts can be punishable only if there is an intention to incite and promote racial discrimination. The State party is urged to take appropriate measures to prevent such incidents in the future and to provide appropriate training to, in particular, public officials, law enforcement officers and administrators with a view to combatting prejudices which lead to racial discrimination, in compliance with article 7 of the Convention

- Egypt, CERD, A/56/18 (2001) 50 at para. 287.

It remains of concern that domestic legislation does not seem to respond fully to the requirement of article 4 of the Convention, specifically article 4(a), which requires State parties to declare as an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin. Defamation as well as acts of violence or the threat to use violence are punishable by law, but there is no legal provision making ethnic or racial motivation for such acts an aggravating circumstance. The State party should review its domestic legislation in the light of the provisions of article 4 of the Convention so as to give effect to all its requirements.

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- 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.

- United States of America, CERD, A/56/18 (2001) 64 at para. 391.

Concern is expressed about the State party's far-reaching reservations, understandings and declarations entered at the time of ratification of the Convention. The implication of the reservation on the implementation of article 4 of the Convention is of particular concern. According to general recommendations VII and XV, the prohibition of dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression, given that a citizen's exercise of this right carries special duties and responsibilities, among which is the obligation not to disseminate racist ideas. The State party should review its legislation in view of the new requirements of preventing and combatting racial discrimination, and adopt regulations extending the protection against acts of racial discrimination, in accordance with article 4 of the Convention.

- Viet Nam, CERD, A/56/18 (2001) 68 at para. 415.

Article 87 of the Criminal Code and article 10, paragraph 2, of the Law on the Press do not encompass the whole scope of application of article 4 of the Convention. Specific legislation should be adopted in accordance with article 4 of the Convention.

ICCPR

- Burundi, ICCPR, A/49/40 vol. I (1994) 58 at para. 363.

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The use of the media to incite hostility and violence among the various population groups constitutes a clear violation of the provisions of article 20 of the Covenant.

- New Zealand, ICCPR, A/50/40 vol. I (1995) 38 at para. 181.

The Committee is concerned about the fact that, while the Human Rights Act contains a provision corresponding to article 20, paragraph 2, of the Covenant, this provision does not include a prohibition of advocacy of religious hatred.

- Ukraine, ICCPR, A/50/40 vol. I (1995) 57 at para. 322.

Concern is expressed at the information in the report, corroborated by cases, that there are incidents and situations which may be conducive to acts of discrimination on ethnic, gender, religious, linguistic or property grounds. It is regretted that the appropriate steps have not yet been taken by the authorities to resolve those difficulties and, in particular, to prevent and suppress the advocacy of national, racial or religious hatred in conformity with the requirements of article 20 of the Covenant. This situation is particularly alarming in that it may undermine harmonious relations with minorities. In that regard, the Committee regrets that the definition of minorities under the Declaration of the Rights of the Nationalities of Ukraine does not conform fully with article 27 of the Covenant, which grants protection to persons belonging to all ethnic, religious or linguistic minorities, and not only to those belonging to "national" minorities.

- Guyana, ICCPR, A/55/40 vol. I (2000) 53 at paras. 377 and 378.

Paragraph 377

The insufficient attention being paid to the need for multi-ethnicity within the police force and reports of considerable ethnic tension and manifestations of incitement to discrimination, hostility or violence on racial grounds are of concern.

Paragraph 378

The State party should encourage recruitment to the police force of members of all ethnic communities, and ensure strict compliance with article 20 (2) of the Covenant by enforcing the prohibition of incitement to racial hostility and by taking measures to reduce ethnic tension between all the different groups in Guyana.

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- Denmark, ICCPR, A/56/40 vol. I (2001) 34 at para. 73(8).

The amendment to the Danish Criminal Code to prohibit advocacy of national or racial hatred (art. 20) is welcomed.

ICESCR

- Belgium, ICESCR, E/2001/22 (2000) 77 at para. 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.

CRC

- Yugoslavia (Serbia and Montenegro), CRC, CRC/C/50 (1996) 17 at para. 90.

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Information concerning the hostile sentiments apparently broadcast by certain mass media is a concern. Tendencies in the media which may lead to the incitement of hatred against certain ethnic and religious groups is a worry.