

EXPRESSION - FREEDOM OF - HATE SPEECH AND LIMITS ON PROPAGANDA

IV. CONCLUDING OBSERVATIONS, CONTINUED

CERD

- Belgium, CERD, A/57/18 (2002) 17 at paras. 42-44 and 51.

42. With regard to article 4 of the Convention the Committee notes with appreciation the State party's efforts in the field of legislative reform, especially the amendment to article 150 of the Constitution, which transfers jurisdiction over acts motivated by racism and xenophobia committed through the media to lower instance criminal courts. It also welcomes the imposition of financial sanctions on anti-democratic political parties that disseminate racism and xenophobia.

43. The Committee notes with appreciation the work of the Centre for Equal Opportunity and the Struggle against Racism, and in particular the agreement reached between the postal authorities and the Centre with a view to preventing the distribution of material containing racist propaganda and xenophobic statements.

44. The Committee notes measures taken by the State party to counter the dissemination of racist statements on the Internet.

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51. The Committee is concerned that there is no legislation prohibiting racist organizations and propaganda activities. It is also concerned about the increasing influence of xenophobic ideology on political parties, especially in Flanders... Taking into account the mandatory nature of article 4 of the Convention, the Committee also recommends that the State party enact legislation that declares illegal and prohibits any organization which promotes or incites to racism and racial discrimination and consider withdrawing its reservation to this article. In this context, the Committee draws the attention of the State party to its general recommendation XV.

- Costa Rica, CERD, A/57/18 (2002) 21 at para. 70.

70. The Committee welcomes the recent (January 2002) adoption of a resolution by the Office of the National Control of Propaganda prohibiting any radio broadcast or transmission, or any commercial product depicting bias against women, particularly black women.

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- Denmark, CERD, A/57/18 (2002) 27 at paras. 110, 115 and 116.

110. The Committee appreciates the efforts made by Denmark to facilitate the implementation of article 2 of the Convention through the application of legal instruments, including section 266b of the Danish Criminal Code, and other measures to prohibit the dissemination of racist statements and propaganda and to prosecute offenders.

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115. The Committee is aware of reports of an increase in hate speech in Denmark. While it acknowledges the need for balance between freedom of expression and measures to eradicate racist abuse and stereotyping, the Committee recommends that the State party carefully monitor such speech for possible violations of articles 2 and 4 of the Convention. In this regard, the Committee invites the State party to take particular note of paragraphs 85 and 115 of the Durban Declaration and Programme of Action, respectively, which highlight the key role of politicians and political parties in combating racism, racial discrimination, xenophobia and related intolerance. Political parties are encouraged to take steps to promote solidarity, tolerance, respect and equality by developing voluntary codes of conduct so that their members refrain from public statements and actions that encourage or incite racial discrimination.

116. The Committee takes note of the information on the temporary suspension of the licence of Radio OASEN owned by a neo-Nazi Association and recommends that the Danish Government take decisive steps to prohibit such organizations in accordance with article 4 (b) of the Convention.

- Jamaica, CERD, A/57/18 (2002) 30 at para. 132.

132. The Committee is concerned about the absence in the State party of specific legislative, administrative and other measures which aim to give effect to article 4 of the Convention, especially article 4 (b), prohibiting racist organizations. The Committee underlines the obligations of the State party under the Convention and reiterates its view as to the preventive role of such measures. In this connection, the Committee also draws the attention of the State party to its general recommendation VII and general recommendation XV, affirming 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 Committee urges the State party to give due consideration to adopting the necessary legislation to comply with article 4, particularly article 4 (b), of the Convention as a matter of priority.

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- Lithuania, CERD, A/57/18 (2002) 35 at para. 177.

177. The Committee is concerned about information relating to expressions of racial hatred by politicians and the media. In this regard, the Committee stresses that the new criminal code should satisfy the requirements of article 4 of the Convention, especially paragraphs (a) and (b).

- Armenia, CERD, A/57/18 (2002) 50 at para. 276.

276. The Committee reiterates its concern that the Penal Code currently in force, specifically article 69, is not in compliance with article 4 of the Convention. While noting the statement by the delegation that the new penal code is expected to enter into force in 2003, the Committee remains concerned that the drafting of new articles 220 *et seq.* of the new code may not fully address all elements of article 4, in particular as regards the prohibition of organizations which promote and incite racial discrimination. The Committee recommends that prior to its coming into force the State party review the new penal code according to its constitutional provisions in the light of the provisions of the Constitution as well as the provisions of article 4 of the Convention so as to ensure that the new penal code gives effect to all its requirements.

- Canada, CERD, A/57/18 (2002) 56 at paras. 335 and 338.

335. The Committee...is...concerned that the State party focuses on the prohibition of activities conducted by racist organisations rather than on the prohibition of such organizations, as required by article 4 (b) of the Convention...

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338. The Committee notes with concern that, in the aftermath of the events of 11 September 2001, Muslims and Arabs have suffered from increased racial hatred, violence and discrimination. The Committee therefore welcomes the statement of the Prime Minister in the Ottawa Central Mosque condemning any acts of intolerance and hatred against Muslims, as well as the reinforcement of Canadian legislation to address hate speech and violence. In this connection, the Committee requests the State party to ensure that the application of the Anti-terrorism Act does not lead to negative consequences for ethnic and religious groups, migrants, asylum-seekers and refugees, in particular as a result of racial profiling.

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- Hungary, CERD, A/57/18 (2002) 63 at paras. 372 and 376.

372. The Committee...welcomes the positive elements incorporated in...Act I of 1996 on Radio and Television Broadcasting, aiming at preventing hate speech and discrimination on racial, national and ethnic grounds...

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376. Further to the decision No. 12/1999 (V.21) of the Hungarian Constitutional Court, which annulled part of section 269 of the Criminal Code punishing incitement to hatred, the State party committed itself to enacting the necessary provisions to prohibit hate speech. The Committee expresses concern that the existing legislation does not cover all aspects of article 4 of the Convention. The Committee recalls its general recommendations VII and XV, which stress, *inter alia*, the mandatory character of this provision and recommends the adoption of further amendments to the Hungarian Criminal Code to encompass all those aspects, including the prohibition of organizations and activities mentioned in article 4 (b) of the Convention.

- New Zealand, CERD, A/57/18 (2002) 69 at para. 425.

425. The Committee takes note of the operation of Sections 131 and 134 of the Human Rights Act, according to which the institution of criminal proceedings against those accused of incitement to racial hatred is subject to the consent of the Attorney-General. Observing that the institution of such proceedings is rare, the State party is invited to consider ways and means of facilitating the institution of proceedings in this field.

- Senegal, CERD, A/57/18 (2002) 72 at para. 444.

444. The Committee recommends that the State party supplement its legislation in order to give effect to article 4 of the Convention, bearing in mind the Committee's general recommendation XV, which is relevant in this context.

- Yemen, CERD, A/57/18 (2002) 74 at para. 461.

461. The Committee expresses concern at the absence of an explicit penal provision in the State party's legislation in respect of the mandatory provision prohibiting the dissemination and promotion of racial discrimination and violence formulated in article 4 of the Convention. The Committee recommends that the State party revise its Penal Code in order to introduce specific legislation and implement the provisions of article 4.

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- Côte d'Ivoire, CERD, A/58/18 (2003) 19 at paras. 23 and 34.

23. The Committee welcomes the State party's commitment to prosecute any media which incite hatred or racial discrimination.

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34. Noting with concern that some of the national media have used propaganda to incite war and encourage hatred and xenophobia, the Committee recommends that the State party continue its efforts to take the necessary measures to put an end to this practice.
- Fiji, CERD, A/58/18 (2003) 25 at paras. 79, 90 and 91.

79. The Committee appreciates the 2002 Agreed Statement by the Prime Minister and the Parliamentary Leader of the Fiji Labour Party urging their respective parties to refrain from making racial statements during parliamentary sessions.

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90. The Committee is concerned that, according to some information, hate speech and assertions of the supremacy of indigenous Fijians occur regularly. The Committee recommends that the State party adopt all necessary measures to put an end to the dissemination of doctrines of superiority based on ethnic origin, which are socially unjust and dangerous, as well as in breach of the Convention...

91. The Committee notes that the word "person" in the relevant provisions of the Penal Code concerning sedition and in the Public Order Act concerning incitement to racial antagonism also includes organizations, and would like to receive further details on this matter. The Committee notes, however, that the legislation provides for sentences such as imprisonment and fines, but not for the prohibition of racist organizations. While taking note of the State party's declaration on article 4 of the Convention, the Committee considers that the State party's legislation does not fully comply with article 4. The Committee recommends that the State party adopt specific and unambiguous legislation relating to the prohibition of racist organizations. The Committee is furthermore concerned that the State party has expressed, in its periodic report, its reluctance to prohibit racist organizations in order to preserve the freedoms of expression and association, and refers the State party to its general recommendation XV (42) of 17 March 1993 on article 4.
- Ghana, CERD, A/58/18 (2003) 30 at para. 117.

117. The Committee welcomes the frankness with which the State party has stated that the existing legislation does not meet the requirements of article 4, paragraphs (a), (b) and (c), of the Convention. The Committee notes that the Criminal Code is currently being reviewed

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and revised, and encourages the State party to accelerate this process and to ensure that the new legislation will comply fully with article 4...

- Morocco, CERD, A/58/18 (2003) 33 at para. 140.

140. Noting that the draft revision of the Penal Code has still not been completed, the Committee repeats its request to the State party to bring the Code into line with article 4 of the Convention.

- Poland, CERD, A/58/18 (2003) 35 at paras. 158 and 159.

158. The Committee, while noting the State party's efforts to prohibit, through legislation, all dissemination of ideas based on racial superiority or hatred and incitement to racial hatred, reminds the State party of its obligation under article 4 to prohibit all organizations and activities, including those of the mass media, which promote and incite racial discrimination. It suggests that the State party strengthen its efforts to implement existing legislation in this regard.

159. The Committee is concerned that some cases of incitement to racial hatred have been dismissed with reference to their low degree of damage to society. The Committee expresses the view that, according to the Convention, all such cases are very harmful to society.

- Russian Federation, CERD, A/58/18 (2003) 38 at paras. 172, 184, 190 and 193.

172. The Committee notes with appreciation the concrete measures taken by the State party against extreme nationalist and racist organizations.

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184. While appreciating the particular history of Cossacks in the Russian Federation, the Committee is concerned at reports that some Cossack organizations have engaged in acts of intimidations and violence against ethnic groups. According to information received by the Committee, these organizations, which function as paramilitary units and are used by local authorities to carry out law enforcement functions, enjoy special special privileges, including State funding. In this regard, the Committee recommends, in accordance with article 2(b) of the Convention, that State party ensure that no support is provided to organizations which promote racial discrimination and that it prevent Cossack paramilitary units from carrying out law enforcement functions against ethnic groups.

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190. While welcoming the steps taken to implement article 4 of the Convention, the

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Committee is concerned about the lack of a clear definition of the concept of political extremism in the federal law of 2002 “On Counteracting Extremist Activities”. The Committee encourages the State party to review the law with a view to defining its scope more clearly.

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193. The Committee is concerned about reports that racist materials targeting minority groups and perpetuating negative stereotypes are disseminated in the national media. The Committee recommends that the State party monitor the situation closely...

- Saudi Arabia, CERD, A/58/18 (2003) 41 at para. 210.

210. While noting that the Basic Law, and provisions of Royal Decrees, regulations and codes, as well as the Islamic Shariah, guarantee equality, the Committee is of the opinion that the mere statement of the general principle of non-discrimination in these laws is not a sufficient response to the requirements of the Convention. The Committee recommends that the State party adopt legislation that meets the requirements of articles 2, 3 and 4 of the Convention. In this connection, the Committee draws attention to its general recommendations I, II, VII and XV, and emphasizes the preventive value of legislation expressly prohibiting racial discrimination and racist propaganda.

- Tunisia, CERD, A/58/18 (2003) 47 at para. 254.

254. The Committee does not accept any State party’s assertion that there is no racial discrimination in the State party, and recommends that Tunisia avoid such generalizations in future reports. Noting that new penal laws punish racial discrimination and incitement to racial hatred as extensions of the law that penalizes terrorism, the Committee is concerned about the association of racial discrimination and terrorism. The Committee also remains concerned that the legislation of the State party does not seem to respond fully to the requirements of article 4 of the Convention. The Committee recommends that the State party review its domestic legislation in the light of general recommendation XV concerning the implementation of article 4 of the Convention, and that it adopt separate legislation on the offence of racial discrimination and the propagation of racial hatred.

- Uganda, CERD, A/58/18 (2003) 50 at para. 274.

274. The Committee...expresses concern about the absence of an explicit penal provision

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in the State party's legislation prohibiting organizations and propaganda activities that advocate racial hatred, as required by article 4 (b) of the Convention. The Committee recommends that the State party revise its Penal Code in order to implement fully the provisions of article 4.

- Albania, CERD, A/58/18 (2003) 53 at para. 311.

311. The Committee notes that, although efforts have been made to implement article 4 of the Convention, Albanian legislation still does not meet all the requirements of that provision.

The Committee recommends that the State party, declare as offences punishable by law any assistance to racist activities and the financing thereof, participation in racist organizations, acts of racial violence and incitement to such acts, and any refusal to provide goods or services on racist grounds. It also suggests that an aggravating circumstance of racism should be introduced in the Penal Code so that any offence based on racist grounds can be punished more severely.

- Bolivia, CERD, A/58/18 (2003) 58 at paras. 336 and 338.

336. While the Committee is seriously concerned about the information that a "neo-Nazi" meeting was scheduled to take place in April 2001, as well as about the existence of such a phenomenon in the country, it welcomes the measures taken by the State party which managed to prevent this gathering taking place, in conformity with article 4 (b) of the Convention.

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338. The Committee regrets the paucity of information as to article 4 of the Convention and notes with concern the lack of legislative provisions punishing the dissemination of ideas based on racial superiority or hatred, as well as acts of violence or incitement to violence and the organizations promoting racial discrimination, as required under article 4 of the Convention.

In this regard, the Committee reiterates its previous recommendation urging the State party to fulfil its obligation to make all forms of racial discrimination, as specified in article 4 of the Convention, punishable by law.

- Cape Verde, CERD, A/58/18 (2003) 62 at para. 362.

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362. With respect to article 4 (a) of the Convention, the Committee is concerned about the lack of legal provisions to implement the State party's obligations, notably the absence of legislative measures punishing acts of racial discrimination and violence.

Noting the oral information provided by the delegation that a new Penal Code containing provisions on this issue will enter into force at the beginning of 2004, the Committee recommends that the State party fully comply with obligations under article 4 (a)...

- Czech Republic, CERD, A/58/18 (2003) 65 at paras. 381 and 382.

381. While noting the efforts undertaken by the State party to counter racially motivated violence and discrimination, the Committee remains concerned at the continuance of acts of racially motivated violence and incitement to hatred and the persistence of intolerance and *de facto* discrimination, in particular with regard to the Roma minority.

The Committee recommends that the Government pursue and intensify its efforts to achieve more effective application of existing legislation.

382. Furthermore, the Committee notes that the State party has only declared punishable *active* participation in organizations promoting and inciting racial discrimination.

The Committee urges the State party to consider reviewing this provision and to declare punishable *any* participation in organizations that promote and incite racial discrimination, in accordance with article 4 (b) of the Convention.

- Finland, CERD, A/58/18 (2003) 69 at paras. 402 and 407.

402. The Committee welcomes the approval in January 2003 of a government bill revising the Penal Code and including "racist motives" as aggravating circumstances of a crime. It also notes with satisfaction the introduction of a provision punishing participation in organizations which promote or incite racial discrimination.

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407. While the Committee takes note of the efforts undertaken by the State party in monitoring the spread of racist, discriminatory and xenophobic material on the Internet, it is concerned about the continued occurrence of this phenomenon.

The Committee recalls that article 4 of the Convention is applicable to the phenomenon of racism on the Internet and that the fundamental principle of respect for human dignity requires all States to combat dissemination of racial hatred and incitement to racial hatred.

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It recommends that the State party take appropriate measures to combat racist propaganda on the Internet...

- Islamic Republic of Iran, CERD, A/58/18 (2003) 72 at para. 422.

422. The Committee takes note with satisfaction that the State party has enacted the necessary legislation, in accordance with article 4 (a), to eradicate all incitement to, or acts of, racial discrimination.

- Latvia, CERD, A/58/18 (2003) 75 at para. 446.

446. The Committee is concerned that the law of the State party does not fully respond to the requirements of article 4 of the Convention. The Committee notes that the State party has failed to effectively prohibit all organized and other propaganda activities and to recognize participation in such activities as an offence punishable by law, in accordance with article 4 (b) of the Convention.

The Committee recommends that the State party review its domestic law in the light of its general recommendation XV concerning the implementation of article 4 of the Convention, and that it adopt specific legislation on organized and other propaganda activities that promote and incite racial discrimination, irrespective of the legal status of the group or organization.

- Norway, CERD, A/58/18 (2003) 79 at paras. 474 and 475.

474. The Committee is concerned that the strict interpretation of the scope of section 135 (a) of the Penal Code, which prohibits any utterance or other communication of racist ideas made publicly or otherwise disseminated among the public, may not cover all aspects of article 4 (a) of the Convention.

The Committee invites the State party to review the provisions of section 135 (a) of the Penal Code in the light of article 4 (a) of the Convention...

475. The Committee takes note of the State party's observation that a formal ban on organizations might not be very effective in combating racism, owing to the fact that the groups involved in most of the racist activities are loose networks and not formal organizations. In this respect, the Committee draws that State party's attention to its general recommendation XV according to which all provisions of article 4 of the Convention are of

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a mandatory character, including declaring illegal and prohibiting all organizations promoting and inciting racial discrimination.

The Committee recommends that the State party adopt the necessary legislation in order to ensure full compliance with article 4(b) of the Convention.

- Republic of Korea, CERD, A/58/18 (2003) 83 at para. 494.

494. While taking note that there are ongoing discussions in the State party concerning the drafting of a Discrimination Prohibition Law, the Committee nevertheless remains concerned that the legislation of the State party does not seem to respond fully to the requirements of article 4 of the Convention.

The Committee recommends that the State party review its domestic legislation in the light of general recommendation XV concerning the implementation of article 4 of the Convention and that it adopt specific legislation on the offence of racial discrimination and incitement of racial hatred in accordance with article 4.

- United Kingdom of Great Britain and Northern Ireland, CERD, A/58/18 (2003) 88 at paras. 524, 531, 533 and 540.

524. The Committee commends the State party's efforts to address more stringently the issue of incitement to racial hatred, including the introduction of a mechanism whereby the Metropolitan Police will provide a central advice point for all forces in England and Wales in relation to possible offences of incitement to racial hatred, as well as the increase in the maximum penalty for incitement to racial hatred from two to seven years' imprisonment under the Anti-Terrorism, Crime and Security Act 2001.

...

531. The Committee...reiterates its concern over the fact that the State party continues to uphold its restrictive interpretation of the provisions of article 4 of the Convention. It recalls that such interpretation is in conflict with the State party's obligations under article 4 (b) of the Convention and draws the State party's attention to the Committee's general recommendation XV according to which the provisions of article 4 are of a mandatory character.

In the light of the State party's recognition that the right to freedom of expression and opinion are not absolute rights, and in the light of statements by some public officials and media reports that may adversely influence racial harmony, the Committee recommends that the State party reconsider its interpretation of article 4.

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533. The Committee remains concerned at reports of attacks on asylum-seekers. In this regard, the Committee notes with concern that antagonism towards asylum-seekers has helped to sustain support for extremist political opinions.

The Committee recommends that the State party adopt further measures and intensify its efforts to counter racial tensions generated through asylum issues, *inter alia* by developing public education programmes and promoting positive images of ethnic minorities, asylum-seekers and immigrants, as well as measures making the asylum procedures more equitable, efficient and unbiased.

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540. The Committee is concerned about reported cases of “Islamophobia” following the 11 September attacks. Furthermore, while the Committee takes note that the State party’s criminal legislation includes offences where religious motives are an aggravating factor, it regrets that incitement to racially motivated religious hatred is not outlawed.

The Committee recommends that the State party give early consideration to the extension of the crime of incitement to racial hatred to cover offences motivated by religious hatred against immigrant communities.

- Malawi, CERD, A/58/18 (2003) 93 at para. 556.

556. The Committee notes that the State party’s Constitution prohibits discrimination, particularly on the grounds of race, colour, language, religion, nationality and ethnic origin, and allows for the adoption of legislation to address inequalities in society and to prohibit discriminatory practices. It welcomes the adoption of the Employment Act in 2000 which bans discrimination in the context of employment. The Committee is nevertheless concerned that no further legislation has been adopted to prevent and eliminate racial discrimination.

The Committee recalls that the inclusion of a general principle of non-discrimination in the Constitution is not a sufficient response to the requirements of the Convention. The Committee recommends that the State party adopt further legislation in order to meet the requirements of articles 2, 3, 4 and 5 of the Convention. In this connection, the Committee draws attention to its general recommendations I, II, VII and XV, and emphasizes the preventive value of legislation expressly prohibiting racial discrimination and racist propaganda...

- Bahamas, CERD, A/59/18 (2004) 10 at paras. 30 and 31.

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30. The Committee regrets that the Bahamas has still not passed a law meeting the requirements of article 4 of the Convention, while noting that the State party does intend to modify its legislation to that effect.

The Committee encourages the State party to comply with the requirements of article 4 of the Convention. It also suggests including racial motivation as an aggravating factor in criminal law.

31. The Committee is concerned at reports of statements and press articles inciting racial discrimination against migrants, Haitians in particular, and actual discrimination against migrants in fields such as education and employment. It is disturbed to hear that the State party says it has not been told of such allegations.

The Committee recommends the State party to conduct an inquiry into these allegations and notify the Committee of the outcome. Where appropriate, the State party should take all necessary punitive, educational and other measures to put an end to such conduct.

- Brazil, CERD, A/59/18 (2004) 14 at para. 64.

64. The Committee is disturbed by the increase in the number of racist organizations, such as neo-Nazi groups, and the spread of racist propaganda on the Internet.

The Committee recommends that the State party clarify further the content and application of the relevant provisions of domestic law that address the existence and activity of racist organizations, as well as those that prohibit racist propaganda on the Internet.

- Libyan Arab Jamahiriya, CERD, A/59/18 (2004) 21 at para. 102.

102. The Committee...notes the absence of comprehensive legislation to prevent and prohibit racial discrimination, in particular under article 4 of the Convention. It wishes to underline that, although the Convention prevails over the State party's domestic law, article 4 cannot be directly implemented, as it calls for the enactment of specific provisions setting out sanctions to be applied to offences strictly defined under the law.

The Committee recommends to the State party that it enact legislation responding to all requirements of article 4 of the Convention.

- The Netherlands, CERD, A/59/18 (2004) 29 at para. 151.

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151. While the Committee notes with satisfaction the State party's efforts aimed at combating racist propaganda and the spread of racist and xenophobic material on the Internet, including the forthcoming ratification of the Council of Europe Convention on Cybercrime and its Additional Protocol, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems, it is concerned at the sharp increase in the number of complaints received by the Dutch Complaints Bureau for Discrimination on the Internet (MDI).

The Committee encourages the State party to continue its efforts to combat this contemporary manifestation of racial discrimination...

- Spain, CERD, A/59/18 (2004) 32 at para. 170.

170. Concern is...expressed about allegations received of instances of police misbehaviour towards ethnic minorities or persons of non-Spanish origin, including abusive and insulting speech, ill-treatment and violence.

The Committee draws the State party's attention to its general recommendation XIII on the training of law enforcement officials in the protection of human rights and recalls that law enforcement officials should receive intensive training to ensure that in the performance of their duties they respect and protect human dignity and maintain and uphold the human rights of all persons without distinction as to race, colour or national or ethnic origin.

- Suriname, CERD, A/59/18 (2004) 36 at para. 186.

186. The Committee notes with satisfaction that the State party's criminal law is broadly consistent with the requirements of article 4 (a) of the Convention.

- Sweden, CERD, A/59/18 (2004) 41 at paras. 214 and 220.

214. The Committee welcomes the adoption of a series of legislative measures undertaken by the State party to combat racial discrimination, including:

...

(c) The amendments to the Fundamental Law on Freedom of Expression, which came into force in January 2003, which facilitates the bringing of legal action in cases of racial agitation;

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220. The Committee takes note of the fact that the State party continues to uphold its interpretation of the provisions of article 4 of the Convention, maintaining that criminal acts committed by the members or supporters of a racist organization may be prohibited and penalized by law, but not the existence of, and participation in, racist organizations.

The Committee draws the State party's attention to its general recommendation XV according to which all provisions of article 4 of the Convention are of a mandatory character, including declaring illegal and prohibiting all organizations promoting and inciting racial discrimination, as well as recognizing participation in such organizations as an offence punishable by law. Accordingly, the Committee recommends that the State party reconsider its position and adopt the necessary legislation in order to ensure full compliance with article 4 (b) of the Convention.

- Argentina, CERD, A/59/18 (2004) 45 at para. 245.

245. The Committee is concerned about incidents of incitement to racial hatred and racist propaganda in the media, including on the Internet.

The Committee recalls that article 4 of the Convention is applicable to the phenomenon of racism in the media, including on the Internet, and that the fundamental principle of respect for human dignity requires all States to combat dissemination of racial hatred and incitement to racial hatred. It recommends that the State party take appropriate measures to combat racist propaganda in the media...

- Belarus, CERD, A/59/18 (2004) 50 at para. 264.

264. The Committee expresses concern over the dissemination of racist, discriminatory and xenophobic, in particular, anti-Semitic propaganda on the Internet, while acknowledging the efforts undertaken by the State party to curtail such phenomena.

While reminding the State party of its obligation to respect the right to freedom of opinion and expression when implementing article 4 of the Convention in the context of the Committee's general recommendation XV, the Committee recommends to the State party that it strengthen its efforts to combat racist propaganda on the Internet...

- Kazakhstan, CERD, A/59/18 (2004) 54 at para. 286.

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286. While taking note of the constitutional and other provisions prohibiting propaganda regarding racial or ethnic superiority, the Committee is concerned about the insufficiency of specific penal provisions concerning article 4 (a) of the Convention in the domestic legislation of the State party.

The Committee recommends that the State party adopt legislation, in the light of the Committee's general recommendation XV, to ensure full and adequate implementation of article 4 (a) of the Convention.

- Madagascar, CERD, A/59/18 (2004) 58 at para. 316.

316. The Committee notes that incitement to tribal and racial hatred occurs sporadically and that acts of racial violence have been committed against members of the Indian/Pakistani community.

The Committee recommends that additional measures be taken to prevent such acts, and that the perpetrators should be brought to justice in accordance with relevant domestic legislation, promulgated pursuant to article 4 of the Convention...

- Mauritania, CERD, A/59/18 (2004) 61 at paras. 339 and 340.

339. The Committee, while taking note of orders No. 91-023 and No. 091-024 of 25 July 1991 on freedom of the press and on political parties, respectively, notes with concern that the State party's legislation does not fully meet the requirements of article 4 of the Convention, in that the provisions of the Criminal Code do not expressly address racial or ethnic discrimination.

The Committee recommends that the State party fill this gap in its legislation, including by providing that racially motivated offences be considered an aggravating circumstance in the commission of an offence.

340. The Committee regrets the lack of information on the implementation of Order No. 091-024 of 25 July 1991, which prohibits political parties from identifying with a race, an ethnic group, a region, a tribe, or a brotherhood. It is concerned at reports that the Order has sometimes been improperly applied to certain political parties.

The Committee recommends that the State party guarantee respect for the freedoms of expression and association in its implementation of article 4 (a) and (b) of the Convention...

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- Portugal, CERD, A/59/18 (2004) 66 at paras. 364 and 366.

364. The Committee...notes with satisfaction the prohibition, as a result of the fourth revision of the Constitution, of racist organizations (organizations adopting a fascist ideology having already been banned).

...

366. While noting the efforts undertaken by the State party to counter racially motivated violence and discrimination, the Committee continues to be concerned that racially motivated acts and incitement to hatred continue to occur and that intolerance and *de facto* discrimination, in particular towards ethnic minorities, persist. Furthermore, the Committee is concerned about the activities of the National Renovation Party, which targets immigrants in its manifestos and campaigns.

The Committee recommends that the Government pursue and intensify its efforts to eradicate all incitement to, and acts of, racial discrimination. In this respect, in light of its general recommendation XXX, the Committee recommends that the State party introduce in its criminal law a provision to the effect that committing an offence with racist motivation or aim constitutes an aggravating circumstance...

- Saint Lucia, CERD, A/59/18 (2004) 86 at para. 452.

452. The Committee is concerned by reports of the alleged inclusion in certain school textbooks of racist passages concerning the Bethechilokono people.

It urges the State party to delete all racist content from school textbooks, to take measures to punish those who make such references, to provide education that will eliminate racial prejudices and to promote understanding and tolerance among different racial and ethnic groups.

- France, CERD, A/60/18 (2005) 26 at para. 98.

98. The Committee welcomes the measures taken to prevent the spread of racist messages on the Internet, in particular the adoption of the Act of 21 June 2004.

- Luxembourg, CERD, A/60/18 (2005) 40 at paras. 195 and 197.

195. The Committee is concerned at the fact that racist and xenophobic propaganda is to be found on Internet sites.

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The Committee encourages the State party to combat this contemporary form of racial discrimination, which is covered by the principles of the Convention... It also suggests that the State party ratify the Council of Europe Convention on Cybercrime and its Additional Protocol concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems.

...

197. While noting the action taken in response to the requirements of article 4 of the Convention, the Committee observes that the State party still upholds its interpretation of that article, *viz.* that criminal acts committed by members or supporters of a racist organization may be prohibited or punished by law, but not the existence of, or participation in, racist organizations.

The Committee draws the State party's attention to its general recommendation XV, according to which all provisions of article 4 of the Convention are of a mandatory character, including declaring illegal and prohibiting any organization promoting or inciting discrimination, as well as recognizing participation in such an organization as an offence punishable by law. Accordingly, the Committee recommends that the State party reconsider its position.

- Georgia, CERD, A/60/18 (2005) 46 at para. 239.

239. While taking note of the introduction of section 1 of article 142 of the Criminal Code regarding acts of racial discrimination, the Committee is concerned over the insufficiency of specific penal provisions implementing article 4 (a) and (b) of the Convention in the domestic legislation of the State party (art. 4).

The Committee recommends that the State party adopt legislation, in the light of its general recommendation XV, to ensure a full and adequate implementation of article 4 (a) and (b) of the Convention in its domestic legislation, in particular declaring an offence punishable by law the dissemination of ideas based on racial superiority or hatred and any assistance to racist activities, including financing, as well as declaring illegal organizations and propaganda activities which promote and incite racial discrimination and recognizing, as an offence punishable by law, participation in such organizations or activities.

- Iceland, CERD, A/60/18 (2005) 51 at para. 272.

272. The Committee encourages the State party to consider ratifying the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness and to complete the ratification process of the Additional Protocol to the Convention on

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cybercrime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems.

- Nigeria, CERD, A/60/18 (2005) 54 at para. 292.

292. The Committee expresses concern about the absence of an explicit penal provision in the State party's legislation prohibiting organizations and propaganda activities that advocate racial hatred, as required by article 4 (b) of the Convention (art. 4).

In the light of its general recommendation XXX (2004), the Committee recommends that the State party introduce in its criminal law a provision to the effect that committing an offence with racist motivation or aim constitutes an aggravating circumstance...

- Turkmenistan, CERD, A/60/18 (2005) 61 at para. 317.

317. The Committee is deeply concerned about reported instances of hate speech against national and ethnic minorities, including statements attributed to high-ranking government officials and public figures supporting an approach to Turkmen ethnic purity, which is reported to have a significant detrimental impact on the population given the severe restrictions on freedoms of opinion and expression impeding opposition to such discourses. The Committee is further concerned that such speech is inconsistent with the fundamental principle of racial and ethnic equality underlying the Convention (art. 4).

The Committee urges the State party to abide by its obligation under article 4 (c) of the Convention not to permit public authorities or public institutions, national or local, to promote or incite racial discrimination...

- Zambia, CERD, A/60/18 (2005) 75 at para. 404.

404. The Committee reiterates its concern that the provisions of article 4 (b) of the Convention have not yet been fully incorporated in domestic law.

The Committee recommends that the State party recognize participation in organizations promoting and inciting racial discrimination as a punishable offence.

ICCPR

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- Switzerland, ICCPR, A/57/40 vol. I (2002) 44 at para. 76(8).

(8) The Committee is concerned that incidents of racial intolerance have increased. While commending the continuous efforts made by the Federal Commission against Racism to combat anti-Semitism, racism and xenophobia, it notes that the Commission does not have the power to initiate legal action to combat racial incitement and discrimination.

The State party should ensure rigorous enforcement of its laws against racial incitement and discrimination. It should consider broadening the mandate of the Federal Commission against Racism, or creating an independent human rights mechanism with the power to initiate legal action (articles 2 and 20 of the Covenant).

- Sweden, ICCPR, A/57/40 vol. I (2002) 57 at para. 79(14).

(14) The Committee is deeply concerned at the existence and considerable activism of neo-Nazi organizations and by the production and distribution of so-called "white power" music preaching the superiority of the white race (article 20 of the Covenant).

The State party should take steps to review its policy towards the establishment and operation of racist, xenophobic and, especially, neo-Nazi organizations. It should also review its attitude towards the production and distribution of so-called "white power" music.

- Egypt, ICCPR, A/58/40 vol. I (2002) 31 at para. 77(18).

(18) The Committee is deeply concerned at the State party's failure to take action following the publication of some very violent articles against the Jews in the Egyptian press, which in fact constitute advocacy of racial and religious hatred and incitement to discrimination, hostility and violence.

The State party must take whatever action is necessary to punish such acts by ensuring respect for article 20, paragraph 2, of the Covenant.

- Israel, ICCPR, A/58/40 vol. I (2003) 64 at para. 85(20).

(20) The Committee is concerned by public pronouncements made by several prominent Israeli personalities in relation to Arabs that may constitute advocacy of racial and religious hatred constituting incitement to discrimination, hostility and violence.

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The State party should take the necessary action to investigate, prosecute and punish such acts in order to ensure respect for article 20, paragraph 2, of the Covenant.

- Russian Federation, ICCPR, A/59/40 vol. I (2003) 20 at para. 64(20).

(20) While welcoming the State party's efforts to ban and prosecute groups propagating racist and xenophobic views, the Committee expresses its concern that the definition of "extremist activity" in the federal law of July 2002 "On Combating Extremist Activities" is too vague to protect individuals and associations against arbitrariness in its application.

The State party is encouraged to revise the above law with a view to making the definition of "extremist activity" more precise, to exclude any possibility of arbitrary application and give notice to persons concerned regarding actions for which they will be held criminally liable (arts. 15 and 19 to 22).

- Belgium, ICCPR, A/59/40 vol. I (2004) 56 at para. 72(27).

(27) The Committee notes with concern that a number of racist, xenophobic, anti-Semitic and anti-Muslim acts have taken place in Belgium. It is concerned that political parties urging racial hatred can still benefit from the public financing system, and observes that a bill designed to put an end to that situation is still being considered by the Senate (art. 20).

The State party should take all necessary steps to protect communities resident in Belgium against racist, xenophobic, anti-Semitic and anti-Muslim acts. It should have the above-mentioned bill passed as soon as possible, and consider sterner measures to prevent individuals and groups from seeking to arouse racial hatred and xenophobia, in pursuance of article 20, paragraph 2, of the Covenant.

- Serbia and Montenegro, ICCPR, A/59/40 vol. I (2004) 68 at para. 75(25).

(25) While noting reports about the decrease in police violence against Roma, the Committee continues to be concerned at violence and harassment by racist groups, and inadequate protection against racially motivated acts afforded by law enforcement officers (arts. 2, 20, 26).

The State party should take all necessary measures to combat racial violence and incitement, provide proper protection to the Roma and other minorities, and establish mechanisms to receive complaints from victims and ensure investigation and prosecution of cases of racial

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violence and incitement to racial hatred, and ensure access to adequate remedies and compensation.

- Slovenia, ICCPR, A/60/40 vol. I (2005) 74 at para. 93(13).

(13) The Committee is concerned about manifestations of hate speech and intolerance in the public domain which are occasionally echoed by certain media in the State party (art. 20).

The State party should adopt strong measures to prevent and prohibit the advocacy of hate and intolerance that constitutes prohibited incitement and fulfil the provisions of article 20.

CAT

- Finland, CAT, A/60/44 (2005) 32 at para. 71.

71. Amongst the many positive developments, the Committee notes in particular:

...

(c) The measures taken by the State party to implement the Committee's previous recommendations concerning:

....

(iii) The prohibition of the dissemination of ideas based on racial superiority or hatred;

...

CRC

- Italy, CRC, CRC/124 (2003) 36 at paras. 161 and 162.

161. The Committee notes the establishment of several observatories on discrimination in the State party as well as the provisions on discrimination contained in Law 40/98 (Regulations on Immigration and Rules on the Conditions of the Foreigner). Nonetheless, the Committee is concerned at racist incidents involving minorities, the use of hate speech in public presentations, and the disparities in the enjoyment of economic and social rights, particularly in the fields of health, social welfare, education and housing, experienced by poor children, Roma children, non-Italian children, including unaccompanied minors, and disabled children.

162. In accordance with article 2 and other related articles of the Convention and in line

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with its previous recommendations (ibid., paras. 17 and 18), the Committee recommends that the State party:

(a) Take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes, and implement the recommendations of the Committee on the Elimination of Racial Discrimination (A/56/18, paras. 298 and 320);

(b) Strengthen its efforts to incriminate and take appropriate penal sanctions against any act of racism, racial discrimination, xenophobia and related intolerance;

(c) Carefully and regularly evaluate existing disparities in the enjoyment by children of their rights and undertake, on the basis of this evaluation, the necessary steps to prevent and eliminate discrimination through proactive measures;

...

- Croatia, CRC, CRC/C/143 (2004) 36 at paras. 188 and 189.

188. The Committee acknowledges the various efforts undertaken by the State party to follow up its previous recommendations but remains concerned at the *de facto* discrimination against ethnic and national minorities and Roma and foreign children, and at incidents of harassment and expressions of hatred, which have a negative effect on the development of children. The Committee joins the Committee on the Elimination of Racial Discrimination in its concern as it relates to the lack of legal provisions prohibiting incitement to racial discrimination and violence, and about the adequacy of efforts to investigate and prosecute persons responsible for fomenting ethnic hatred (see CERD/C/60/CO/4, para. 12).

189. The Committee reiterates its recommendation that the State party should take measures aimed at developing a culture of tolerance in the society at large through all possible channels, including the schools, the media and the law.

- Austria, CRC, CRC/C/146 (2005) 47 at paras. 253 and 254.

253. While welcoming the State party's efforts to protect children from harmful media influence, the Committee shares the concern of the State party that the existing legal instruments for the limitation of the dissemination of racist, violent and violence-inducing images, texts and games through the Internet and mass media as well as video computer games need to be reviewed and extended.

254. The Committee recommends that the State party continue and strengthen its efforts to

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protect children from harmful information. It further recommends that the State party provide parental education and raise the awareness of children to effectively protect children against violence on the Internet, television and computer games and encourage international cooperation in this respect.