

| EUROPE | Legislation prohibiting incitement to national, racial and religious hatred (<i>Indicate relevant paragraphs and where possible text</i>) | Legislation protecting freedom of speech (<i>Indicate relevant paragraphs and where possible text</i>) | Other information or observations in relation to of public discussion of both. | Examples of or information on relevant jurisprudence on incitement to hatred and/or freedom of speech | Relevant policies in relation to incitement to hatred and/or freedom of speech |
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| Albania | <p>Constitution <u>Article 9:</u> 2) Political parties and other organizations, the programs and activity of which are based on totalitarian methods, which incite and support racial, religious, regional or ethnic hatred, which use violence to take power or influence state policies, as well as those with a secret character, are prohibited pursuant to the law.</p> <p>Penal Code of Albania Law 10221 on the Protection against Discrimination. <u>Article 1:</u></p> <p>Regulation of the Closed Centre for irregular foreigners. <u>Article 2</u> - Every foreigner detained in the Centre shall be treated by the personnel of the centre equally, correctly, reputably and without any discrimination, fully respecting his private life (privacy).</p> | <p>Constitution <u>Article 22:</u> 1. 1. Freedom of expression is guaranteed.</p> | <p>The main concern voiced by all non-governmental stakeholders with regard to the media in Albania is the lack of independence of some of the principal television channels, rather than issues of racist discourse. A Code of Ethics for the audiovisual media was adopted in 2006, which covers, inter alia, the need for the media to respect opinions of all kinds while countering any form of discrimination on grounds of race or religion (among other categories). Albanian authorities have not yet enacted the secondary legislation necessary to ensure that the constitutional guarantees relating to racism can be effectively applied by the ordinary courts.</p> <p>Source: ECRI Report on Albania, 2010, available at: http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Albania/ALB-CbC-IV-2010-001-ENG.pdf</p> | <p>Very few limited data exist on the implementation of the criminal law provisions relating to racism, discrimination and intolerance. Two cases were brought before the courts in 2005 and 2006 under Article 266 of the Criminal Code (breaching public order by inciting hatred towards segments of the population).</p> <p>Source: ECRI Report on Albania, 2010, available at: http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Albania/ALB-CbC-IV-2010-001-ENG.pdf</p> | |
| Austria | <p>Basic Law <u>Article 2:</u> all citizens are equal before the law</p> <p>Constitutional Federal Act <u>Article 7:</u> (1) All federal nationals are equal before the law. Privileges based upon birth, sex, estate, class, or religion are excluded.</p> <p>Federal Constitutional Act on abolishment of all forms of racial discrimination <u>Article 1:</u> (1) Any form of racial discrimination – also to the extent not already in contradiction with</p> | | <p>It appears from the available data and the information supplied to ECRI by civil society and the Austrian authorities that the authorities are continuing to address this issue with due diligence by rigorously implementing the Prohibition Statute (Verbotsgesetz), and that there has been no significant increase in the activities of these organisations in Austria in recent years. This Prohibition Statute (Verbotsgesetz) and the Insignia Act (Abzeichengesetz) contain other relevant provisions, such as making it an offence to set up,</p> | <p>The case law of the Constitutional Court has clarified sufficiently that the Federal Constitutional Act Prohibiting Racial Discrimination not only protects foreigners against discrimination against other foreigners, but also in relation to Austrian nationals (see Decision VfSlg. 15.668/1999 as well as the decision of 25 November 2002, file number B 792/02, and most recently the Decision of 21 June 2004, file number 531/02).</p> <p>With regard specifically to Section 33 (5) of the Criminal</p> | <p>The Internet is monitored by the Federal Agency for State Protection and Counter-Terrorism (Verfassungsschutz und Terrorismusbekämpfung) of the Ministry of the Interior, which has set up a facility to enable users to report any neo-Nazi, racist or anti-semitic material published on the Internet; they can also report it to the ISPA (Internet Service Providers Austria) which works with the Ministry of the Interior and service providers. The Internet is also monitored by the Federal Criminal Police Office (Bundeskriminalamt), which</p> |

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| | <p>Article 7 of the Federal Constitutional Act as amended 1929 and Article 14 of the Convention for the Protection of Human Rights and Fundamental Liberties, Federal Law Gazette No. 210/1958 – is forbidden. Legislation and execution shall refrain from any discrimination for the sole reason of race, colour of skin, descent or national or ethnic origin.</p> <p>Criminal Code</p> <p><u>Section 33:</u> It is especially an aggravating circumstance, if the perpetrator</p> <p>5. acted out of racist, xenophobic or other particularly heinous reasons.</p> <p><u>Section 283:</u> (1) Whoever publicly in a manner that is likely to endanger the public order; commits, or incites, a hostile act against a domestic church or religious society or against by their affiliation to such a church or religious community, a race, a people, a tribe or a State, is punished with imprisonment up to two years.</p> <p>(2) Will be punished in the same way, who publicly incites against one of the groups referred to in section 1 or in an insulting manner violating human dignity or contempt.</p> <p><u>Section 115:</u> (1) Any person who publicly, or in front of several people, insults, mocks, physically abuses or threatens with physical abuse is punishable, if not punishable under any other provision with a more severe penalty, with of up to three months or a fine of up to 180 daily.</p> <p>...</p> <p><u>Section 117(3):</u> the offender of an act as referred to in § 115, can be pursued by the public prosecutor,</p> | | <p>support or promote Nazi organisations aimed at undermining the sovereignty of the state or jeopardising public order, to participate in such organisations, to deny or trivialise Nazi crimes using means accessible to several persons, to disseminate printed or other material of a racist nature, to wear in public Nazi insignia or to distribute them. Section 283 of the Criminal Code was rarely applied by the courts. It conceded that this might be partly due to the fact that, where it was linked with National Socialist ideas, behaviour that constituted an offence under Section 283 was in fact prosecuted under the Prohibition Statute. Another reason, in its view, was that in order for Section 283(1) to be applied, the act of incitement must be likely to jeopardise public order and target a specific group, and that the elements constituting the offences contained in Section 283 were not clearly defined, which resulted in them being construed very narrowly in case-law. Anti-Muslim statements made by the candidate of one of the above-mentioned far-right parties in the Graz city council elections were duly and very strongly condemned by senior figures, including the President and the federal Chancellor, and Parliament lifted the immunity of the individual concerned in November 2008 so that she could be prosecuted under Section 283 of the Criminal Code.</p> <p>Austria is not a party to the Protocol No. 12 to the European Convention on Human Rights, which lays down a general prohibition of discrimination. In addition naturalisation remains, in principle, subject to renunciation of previous citizenship and, except for those which come</p> | <p>Code, no court decision implementing this provision has been recorded.</p> <p>The Court Decision of 31 December 2001, requiring topographical signs to be bilingual where Slovene speakers form more than 10 % of the population, has still not been executed.</p> <p>In several of its decisions, the Austrian Constitutional Court has stated that “any differentiating treatment against and among foreigners is only admissible if, and only to the extent, that there is a discernible reasonable ground and the differentiating treatment is not disproportionate.” This principle is firmly established in case-law together with the general principle of equality under Austrian constitutional law.</p> <p>Source: ECRI Report on Austria, 2010, available at: http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/austria/AUT-CbC-IV-2010-002-ENG.pdf</p> | <p>cooperates with the Federal Agency for State Protection and Counter-Terrorism. The scheme seems to have paid off, as the authorities have told ECRI that there have been relatively few cases of the Internet being used to disseminate racist, xenophobic or anti-semitic comments and material. Some NGOs, however, point to signs that the problem may have intensified in recent years.</p> <p>In the field of education, the authorities have taken steps to address the disadvantaged educational position of non-Austrian children and have continued their efforts to implement the principle of intercultural education.</p> <p>In the field of employment, legislative amendments which came into force in January 2006 extend the right to stand for election to the Chamber of Labour (hitherto reserved for Austrian citizens) and works councils (hitherto reserved for EEA citizens) to all employees, irrespective of their nationality. In the field of housing, long-term resident third country nationals, in all the Länder, are now eligible for social housing on the same terms as Austrian citizens.</p> <p>As regards migrants, people who came to Austria for the purpose of family reunification can now obtain a permit entitling them to work after one year of residence. There have also been moves to facilitate integration, such as the setting-up in Vienna of a special department within the municipal council. At the same time, the conclusion of an agreement between the federal government and the Länder and the adoption of new legislation have paved the way for an improvement in the care provisions for asylum-seekers without resources and</p> |
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| | <p>if they act against the victim because it is a member of a targeted group as referred to in § 283 para 1 groups and consists either of mistreatment or abuse or a threat to the victims human dignity, in a hurtful insult or mockery.</p> <p>Verbotsgesetz (1947)</p> | | <p>under the Prohibition Statute, the Criminal Law provisions against racism and intolerance are rarely applied; the same is true of Austria's criminal administrative law. The provision which requires employers, when making staff cuts, to dismiss foreign workers first has not been repealed. Furthermore, the new federal legislation on equal treatment makes an inappropriate distinction between employment and other fields and contains a number of gaps. The specialised bodies responsible for combating discrimination lack the kind of structural independence required to command full public confidence and do not have sufficient resources. Overall, the fragmented nature of the new anti-discrimination legislation and the number of institutions and procedures involved renders the Austrian system complex in a way that is liable to alienate and undermine its effectiveness. In the field of education, non-Austrian children continue to suffer a disadvantage compared with Austrian children. Black people and Muslims are especially vulnerable to racism and discrimination and the Roma still face serious difficulties. Anti-semitic prejudice remains very much alive in Austria and there are reports of Jewish and Muslim memorials, cemeteries and places of worship being desecrated.</p> <p>Source: ECRI Report on Austria, fourth monitoring cycle, 2010, available at: http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/austria/AUT-CbC-IV-2010-002-ENG.pdf</p> | | <p>unaccompanied minors in principle receive specialised care and are the subject of appropriate monitoring. Lastly, efforts to raise awareness and provide training for those working in the criminal justice system in the statutory provisions and issues relating to racism and xenophobia have been vigorously pursued, and in Vienna there have been encouraging moves to recruit police officers of immigrant background.</p> <p>Source: ECRI Report on Austria, 2010, available at: http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/austria/AUT-CbC-IV-2010-002-ENG.pdf</p> |
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| <p>Azerbaijan</p> | <p>Constitution <u>Article 25 – Right to equality:</u> I. All people are equal with respect to the law and law court. II. Men and women possess equal rights and liberties. III. The state guarantees equality of rights and liberties of everyone, irrespective of race, nationality, religion, language, sex, origin, financial position, occupation, political convictions, membership in political parties, trade unions and other public organizations. Rights and liberties of a person, citizen cannot be restricted due to race, nationality, religion, language, sex, origin, conviction, political and social belonging.</p> <p><u>Article 47 - Freedom of thought and speech</u> III. Propaganda provoking racial, national, religious and social discord and animosity is prohibited.</p> <p>Criminal Code <u>Article 283 - Excitation of national, racial or religious hostility:</u> 283.1. The actions directed on excitation of national, racial or religious hostility, humiliation of national advantage, as well as actions directed on restriction of citizens rights, or establishment of the superiority of citizens on the basis of their national or racial belonging, creeds committed publicly or with use of mass media and is punished by the penalty at a rate from one up to two thousand of nominal financial unit, or restriction of freedom for the term up to three years, or imprisonment for the term from two up to four years. 283.2. The same acts committed: 283.2.1. with application of violence or with threat of its application; 283.2.2. by person with use of the service position; 283.2.3. by organized group and</p> | <p>Constitution <u>Article 47 - Freedom of thought and speech</u> I. Everyone may enjoy freedom of thought and speech. II. Nobody should be forced to promulgate his/her thoughts and convictions or to renounce his/her thoughts and convictions. III. Propaganda provoking racial, national, religious and social discord and animosity is prohibited.</p> <p><u>Article 48 - Freedom of conscience:</u> I. Everyone enjoys the freedom of conscience. II. Everyone has the right to define his/her attitude to religion, to profess, individually or together with others, any religion or to profess no religion, to express and spread one's beliefs concerning religion. III. Everyone is free to carry out religious rituals, however this should not violate public order and contradict public morals. IV. Religious beliefs and convictions do not excuse infringements of the law.</p> <p><u>Article 50 – Freedom of information:</u> I. Everyone is free to look for, acquire, transfer, prepare and distribute information. II. Freedom of mass media is guaranteed. State censorship in mass media, including press is prohibited.</p> | <p>According to the reports of human rights organizations, Article 283 Criminal Code in practice has been applied in a discriminatory fashion and has been used to curtail freedom of expression. (See Addendum)</p> <p>The media field is dominated by State-controlled television channels. There has been no shift towards the establishment of a genuinely independent public service broadcaster. There have been numerous reports of pressure and intimidation against journalists who criticize the state policy. The Nagorno Karabakh conflict, as well as the ongoing plight and potential return of the internally displaced persons, remains the major political and social preoccupation of Azerbaijan. The situation of asylum seekers and refugees has never been the focus of media interest in Azerbaijan. This group is barely represented and they do not participate in the public debate on asylum and migration. Media reporting of the asylum issue is characterized by the continuous confusion between economic migrants, immigrants and asylum seekers. These terms are used as synonyms rather than different terms to accurately convey the specific status and situation of individuals.</p> <p>The Constitution provides for freedom of religion in its Article 48, and the other laws and policies contribute to the generally free practice of religion; however, onerous registration requirements, censorship of religious literature and selective harassment mar effective application of the law. (See Addendum)</p> | | |
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| | is punished by imprisonment for the term from three up to five years. | | | | |
| Belgium | <p>Penal Code <u>Article 377bis</u>: In the cases provided for in this chapter, the minimum of specific penalties are doubled in cases of imprisonment and increased by two years in case of confinement, when one of the motives of the crime or misdemeanor is the hatred, contempt or hostility against a person because of his supposed race, his color, his descent, national or ethnic origin, his nationality, gender, sexual orientation, his civil status, birth, his age, his fortune, his religion or belief, its present or future health status, disability, language, political opinion, trade union beliefs, a physical or a genetic trait or social origin.</p> <p><u>Article 534quater</u>: In the cases stipulated in Articles 534bis and 534ter, the minimum of the penalties specified in those articles are doubled in case of correctional punishments and increased by two years in case of confinement, where one of the motives of the offense consists of hatred, the contempt or hostility against a person because of his supposed race, his color, his descent, national or ethnic origin, his nationality, gender, sexual orientation, his civil status, birth, his age, his fortune, his religion or belief, its present or future health status, disability, language, political opinion, trade union beliefs, a physical or a genetic trait or social origin.</p> <p>Act of 30 July 1981 criminalising certain acts inspired by racism or xenophobia <u>Article 3</u>: This law aims, in relation to the matters referred to in Article 5, to establish a general</p> | <p>Constitution <u>Article 19</u>: Freedom of worship, public practice of the latter, as well as freedom to demonstrate one's opinions on all matters, are guaranteed, except for the repression of offences committed when using this freedom. <u>Article 25</u>: The press is free; censorship can never be established; security from authors, publishers or printers cannot be demanded. When the author is known and resident in Belgium, neither the publisher, nor the printer, nor the distributor can be prosecuted.</p> | <ul style="list-style-type: none"> - One of the problems concerns racist propaganda sites that disseminate hate speech against immigrants or persons of immigrant background, in particular Moroccans, Turks, black persons and Jews. - Another recurring concern is electronic chain mail, and in particular e-mails containing messages denigrating Muslims. - Most of the media are making an effort to provide objective reporting on minority groups and the racism and discrimination that they encounter and that cases of racism are "extremely rare". The media are not immune, however, to the lure of sensationalism, publishing newspaper articles that promote racist stereotypes and prejudice. - There are Neo-Nazi and extreme rightwing groupings active in Belgium. They regularly organise public meetings and concerts in which Nazi chants are sung. - Three Bills have been introduced with the aim of strengthening the legal arsenal for fighting against the activism of Neo-Nazi groups within Belgian territory. There also exist extreme right-wing movements whose primary, ultra-nationalist message is a call for a "homogenous Flanders", and whose extremist discourse is directed towards all non-Flemish people, particularly the French-speaking Belgians living in Flanders, especially on the borders with Brussels-Capital and Wallonia. - Even though acts of racist violence remain rare in Belgium, since the last ECRI report there have been a number of racist attacks, one of which has proved | <p>In the last few years, the Belgian courts have, on a number of occasions, applied the criminal law provisions which provide for an increased penalty if an offence is racially motivated. They have also applied the provisions prohibiting denial of the genocide committed by the Nazi regime (Act of 23 March 1995), handing down suspended or non-suspended prison sentences to persons who made revisionist statements, fining them and/or withdrawing their civil and political rights. The provisions of the Act of 30 July 1981 against racism have also been applied on several occasions by the Belgian courts, which have handed down non-suspended prison sentences in the most serious cases. Circular No. col 6/2006 issued by the Board of Prosecutors General at the Courts of Appeal on 21 March 2006 sought to fine-tune the nomenclature for identifying the racist motivations of certain offences. Under the terms of this circular, in the case of an ordinary offence with a racist motivation, the police and the prosecution service must specifically mention this motivation at the time of recording the offence. A large number of cases are dropped by prosecutors, without any real possibility of knowing why.</p> <p>A number of political figures have been prosecuted for disseminating racist ideology. In 2006, the leader of the National Front (FN) and his parliamentary attaché were sentenced to community service and fined under Section 5 of the Act of 30 July 1981 criminalising certain acts inspired by racism and</p> | <p>The Anti-Racism Action Plan: On 14 July 2004, the federal government adopted the principles of a federal action plan to combat racism, anti-semitism, xenophobia and related violence in order to implement the recommendations of the World Conference on Racism (Durban, 2001). This plan also draws on ECRI recommendations, particularly those formulated in its third report on Belgium. The plan, involving all the federal and federated entities, focuses on the following 10 points: implementation of anti-discrimination legislation, follow-up of complaints, the Internet as a vehicle for racist and anti-semitic ideologies, distribution of racist pamphlets, combating prejudice, the media, police forces, state security, measures to protect target groups, and the setting up of a tolerance barometer.</p> <p>the Centre for Equal Opportunities and the Fight against Racism is responsible for following this up and an evaluation report was drafted on 11 January 2007. The plan has given rise to significant progress in the fight against racism and racial discrimination, even though some projects are still being implemented. In order to combat racism, it is essential to radically change mentalities, which is a long-term undertaking. The Belgian authorities should pursue their approach to the fight against racism by fully implementing their federal action plan against racism, antisemitism, xenophobia and associated violence and by allocating all the necessary resources to ensure its success.</p> |

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| | <p>framework for combating discrimination based on nationality, a so-called race, color, descent or national or ethnic origin.</p> <p><u>Article 12:</u> In matters within the scope of this Act, any form of discrimination is prohibited. For the purposes of this title, discrimination means:</p> <ul style="list-style-type: none"> - Direct discrimination; - Indirect discrimination; - An instruction to discriminate; - Intimidation. <p>Law to punish the denial, [minimalisation], justification or approval of genocide during World War II by the German National Socialist regime</p> <p><u>Article 1:</u> With the imprisonment of eight days to one year and a fine of twenty-six francs to five thousand francs is punished, he who under the circumstances specified in Article 444 of the Criminal Code, denies, grossly minimizes, approves or tries to justify that during the second world war genocide was committed by the German Nazi regime. ...</p> <p>Law to combat certain forms of discrimination (10 May 2007)</p> <p><u>Article 3:</u> This law aims, with regard to the issues in Article 5, to create a general framework for combating discrimination based on age, sexual orientation, marital status, birth, wealth, religion or belief, political conviction, trade union overtuiging, a language, present or future health status, disability, physical or a genetic trait or social origin.</p> <p><u>Article 14:</u> In matters within the scope of this Act, any form of discrimination is prohibited. For the purposes of this title, discrimination means:</p> <ul style="list-style-type: none"> - Direct discrimination; - Indirect discrimination; - An instruction to discriminate; | | <p>fatal; this illustrates the fact that the problem of racist violence must be closely monitored.</p> <ul style="list-style-type: none"> - The authorities are attempting to respond to these acts of violence in a variety of ways. - ECRI notes the persistence of intolerant acts and expressions directed against persons belonging to the Jewish community. - The “cordon sanitaire” introduced by the main Belgian parties, under which they refuse to negotiate with the extreme right-wing parties so as to prevent them from ever coming to power, has probably helped to weaken these parties, with the 2007 general election seeing a levelling off or even decline in support compared with the regional elections in 2004 <p>The 2004 Federal Action Plan to combat racism, anti-semitism, xenophobia and related violence calls for special attention to be given to racist and anti-semitic ideologies that are spread over the Internet. On 21 March 2006 a symposium was held on “cyberhate: racism and discrimination on the Internet”, following which a website was created to enable anyone who came across a racist site to report it: www.cyberhate.be. A guide for Internet users, entitled “delete cyberhate” has been distributed by the Centre for Equal Opportunities and the Fight against Racism. A number of individuals who have broadcast statements inciting to racial hatred have been prosecuted. In 2005, for example, several persons were fined for broadcasting a racist version of a popular children’s song over the Internet.</p> <p>Source: ECRI Report on Belgium, 2009, available at:</p> | <p>xenophobia for incitement to racial hatred through election materials and various caricatures. Under Section 5bis of the same Act, the FN leader was deprived of his political rights for seven years. In addition, three candidates from the New Belgian Front (FNB) were given a suspended sentence of one month’s imprisonment and ordered to pay compensation for the legal costs incurred by the Centre for Equal Opportunities and the Fight against Racism, for having distributed racist tracts during municipal elections. On 9 November 2004, the Court of Cassation upheld the decision of the Court of Appeal of Ghent of 21 April 2004 to fine three associations linked to Vlaams Blok more than EUR 12,000 each for violating Section 3 of the Act of 30 July 1981 which prohibits participation in organisations that advocate racism. The courts have thus abandoned their former position, which was that only the Assize Courts were competent to deal with cases of this kind because they were “political offences”. Following this case, Vlaams Blok renamed itself Vlaams Belang (Flemish Interest) and had to adopt a new, less extremist and xenophobic platform, although the changes are more of a cosmetic nature, the general ideology of the party having remained the same.</p> <p>In June 2006, the operators of the “Belgian Islamic Centre of Molenbeek” website - a racist propaganda website - were sentenced to a 10-month term of imprisonment, 5 months of which were suspended, and fined EUR 15,000 for clear incitement to hatred against the Israeli people and Jews in general. T</p> <p>Source: ECRI Report on Belgium,</p> | <p>Intercultural Dialogue: The natural counterpart to the fight against racism is intercultural dialogue, one of the key components of peaceful co-existence between all members of society. The Belgian authorities have decided to take action via several initiatives, some of which are referred to elsewhere in this report. The Commission on Intercultural Dialogue was set up by the federal government in February 2004. The objective of this Commission was to review issues relating to the multicultural society taking shape in Belgium as elsewhere in Europe. This Commission published a final report in May 2005, detailing its activities and making recommendations to the Belgian authorities. Conferences on interculturality are scheduled for 2009 and examples of good practice in this field are currently being compiled in order to present at these conferences cogent intercultural dialogue mechanisms.</p> <p>Source: ECRI Report on Belgium, 2009, available at http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Belgium/BEL-CbC-IV-2009-018-ENG.pdf</p> |
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| | - Intimidation. | | http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Belgium/BEL-CbC-IV-2009-018-ENG.pdf See Addendum | 2009, available at: http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Belgium/BEL-CbC-IV-2009-018-ENG.pdf | |
| Bulgaria | <p>Constitution of the Republic of Bulgaria <u>Art. 39.</u> (1) Everyone shall be entitled to express an opinion or to publicise it through words, written or oral, sound or image, or in any other way. (2) This right shall not be used to the detriment of the rights and reputation of others, or for the incitement of a forcible change of the constitutionally established order, the perpetration of a crime, or the incitement of enmity or violence against anyone.</p> <p>Penal Code <u>Article 162:</u> (1) Who propagates or incites racial or national hostility or hatred or racial discrimination shall be punished by imprisonment of up to three years and by public reprobation. (2) Who applies violence against another or damages his property because of his nationality, race, religion or his political conviction shall be punished by imprisonment of up to three years and by public reprobation. (3) Who forms or heads an organisation or a group whose goal is the perpetration of the act under the preceding paragraphs shall be punished by imprisonment of one to six years and by public reprobation. (4) A member of such an organisation or a group shall be punished by imprisonment of up to three years and by a public reprobation. <u>Article 163:</u> (1) The persons who participate in a crowd for attack on groups of the population, individual citizens or their property in connection with their national or</p> | <p>Constitution of the Republic of Bulgaria <u>Art. 39.</u> (1) Everyone shall be entitled to express an opinion or to publicise it through words, written or oral, sound or image, or in any other way. (2) This right shall not be used to the detriment of the rights and reputation of others, or for the incitement of a forcible change of the constitutionally established order, the perpetration of a crime, or the incitement of enmity or violence against anyone.</p> | <p>Hate speech towards ethnic and religious minorities continued to dominate in some media. These include most of all the SKAT television and its programmes Paralax, UpFront, Discussion Studio, etc., as well as the Ataka newspaper published by the extreme nationalist party bearing the same name. Hate speech against ethnic minorities, religious communities and people with different sexual orientation occurred sporadically in other media as well.</p> <p>(see Addendum)</p> | <p>The case law of the Commission for Protection Against Discrimination (CPAD) on hate speech developed in a positive direction over the years. On several occasions, the CPAD ruled in line with the international standards that stereotypical negative statements against minorities are a violation of human dignity and create a hostile and abusive environment in contradiction with the law. The CPAD is consistent in advocating that freedom of expression is not absolute and that instilling intolerance goes beyond its boundaries. The commission ruled against hate speech in a series of printed and electronic media, qualifying it as abuse. There were some positive practices of the Supreme Administrative Court (SAC) as well. In December, it found a Sofia municipal mayor guilty of abuse of Roma. The court held that the mayor anti-Roma statements on a radio station constitute a violation of the dignity of all Roma and create an abusive environment for them.</p> <p>There have been instances of racist and xenophobic political speeches and comments, pronounced mainly by members of an extreme right-wing party and its leader. The latter has twice been sentenced for racist remarks in response to complaints by members of civil society. Six further complaints are currently before the courts. As stated above, a strong</p> | |

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| | <p>racial belonging shall be punished:</p> <p>1. the instigators and leaders - by imprisonment of up to five years;</p> <p>2. all the rest - by imprisonment of up to one year or corrective labour.</p> <p>(2) If the crowd or some of the participants are armed the punishment shall be:</p> <p>1. for the instigators and leaders - imprisonment of one to six years;</p> <p>2. for all the rest - imprisonment of up to three years.</p> <p>(3) If an attack is carried out and as a result of it a serious bodily harm or death has followed the instigators and the leaders shall be punished by imprisonment of three to fifteen years and all the rest - by imprisonment of up to five years, unless they are subject to a more serious punishment.</p> <p>Article 164: Who propagates hatred on religious grounds through speeches, publications, activities or in any other way shall be punished by imprisonment of up to three years or by corrective labour.</p> <p>Article 165: (1) Who, by force or threat obstructs the citizens to profess their faith or carry out their rituals and services which do not violate the laws of the country, the public peace and the good morals shall be punished by imprisonment of up to one year.</p> <p>(2) The same punishment shall be imposed on those who, in the same way, compels another to participate in religious rituals and services.</p> <p>(3) For the acts under art. 163 committed against groups of the population, individual citizens or their property in connection with their religious belonging shall apply the punishments stipulated by it.</p> | | | <p>message from the authorities would be necessary to counter the harmful impact of this party and of any other political personality who indulges in the same kind of rhetoric, by ensuring that the prosecuting authorities make sure that the legislation on incitement to hatred is enforced. The political party's television channel regularly broadcasts a programme attacking ethnic minorities and foreigners. To date, however, no action has been taken against this channel, even though representatives of ethnic minorities have lodged complaints against it.</p> | |
| Czech Rep | Criminal Code Section 42(b) | | See Addendum | In accordance with the Right of Assembly Act (No. 84/1990), the authorities may put a stop to a | Strategy on Combating Extremism: On 23 March 2009, the government adopted a |

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| | <p><u>Section 352</u></p> <p><u>Section 355</u></p> <p><u>Section 356</u></p> <p><u>section 400-405</u></p> | | | <p>march or other such demonstration immediately if illegal activities occur. This rule has been successfully applied in the past to disperse a neo-Nazi parade at which racist slogans were chanted. However, the same Act requires officials who consider that a planned event should not take place at all to impose a ban on the event within three calendar days of receiving notification of the event. This rule has been strictly interpreted by the courts, which in early 2008 overturned a decision by the mayor of Plzen to ban a march that had been approved by a lower authority a month earlier. Some local authorities as well as many civil society actors consider that the three-day rule itself, or at least the manner in which it is presently applied, is too strict to allow effective action to be taken to prevent neo-Nazi or other public gatherings at which racist discourse or actions that are in breach of the law can be expected. ECRI understands that a request to strike down the rule is now pending before the Constitutional Court.</p> <p>Source: ECRI Report on the Czech Republic, 2009, available at http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/czech_republic/CZE-CbC-IV-2009-030-ENG.pdf</p> | <p>Resolution on solving acute problems of social exclusion and took note of a document entitled "Identification of Social Exclusion Problems". The authorities have indicated that this document is to form the basis of a Strategy for Combating Extremism, which is to be submitted to the government by the end of 2009 and of which the conceptual part was discussed by the government on 4 May 2009. The Strategy consists of two parts. Part I contains a report on the issue of extremism in the Czech Republic in 2008, which provides information on developments within the extremist scene, activities of extremists, recorded criminal activities having an extremist subtext, and problems and security risks that must be tackled. Part II sets out a policy for combating extremism, which seeks to give priority to specific, simple and targeted solutions over declarations that cannot be put into practice. The policy is based on five pillars: 1) communication, openness and offering alternatives to extremist propaganda; 2) arming citizens with knowledge against dangerous ideas, in particular through schools; 3) involving both governmental and non-governmental actors in the fight against extremism; 4) guaranteeing the professionalism of experts engaged in the fight against extremism; 5) imposing sanctions on extremist offenders through effective use of existing means and mechanisms.</p> <p>Source: ECRI Report on the Czech Republic, 2009, available at http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/czech_republic/CZE-CbC-IV-2009-030-ENG.pdf</p> |
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| <p>Denmark</p> | <p>Criminal Code <u>Section 266 (b)</u>: (1) Any person who, publicly or with the intention of wider dissemination, makes a statement or imparts other information by which a group of people are threatened, insulted or degraded on account of their race, colour, national or ethnic origin, religion or sexual inclination shall be liable to a fine or to imprisonment for any term not exceeding two years. (2) When the sentence is meted out, the fact that the offence is in the nature of propaganda activities shall be considered an aggravating circumstance.”</p> <p><u>Section 81</u>: In determining the penalty it shall, as a general rule, be considered a circumstance in aggravation (...) 6) that the offence stems from others’ ethnical origins, religious beliefs, sexual orientation or the like;</p> | <p>Constitution <u>Section 77</u>: Any person shall be entitled to publish his thoughts in printing, in writing, and in speech, provided that he may be held answerable in a court of justice. Censorship and other preventive measures shall never again be introduced.</p> | <p>The general climate has continued to deteriorate in Denmark, with some politicians and parts of the media constantly projecting a negative image of minority groups in general and Muslims in particular. In this regard, the relevant law on incitement to racial hatred is seldom applied to those who make statements against these groups, thus creating a sense of impunity that contributes to a further worsening of the public climate.</p> <p>Source: ECRI Report on Denmark, 2006, available at: http://hudoc.ecri.coe.int/XML/Ecri/ENGLISH/Cycle_03/03_CbC_enq/DNK-CbC-III-2006-18-ENG.pdf</p> | <p>Police are still very reluctant to register complaints of racist statements and to investigate and press charges under Article 266 b) of the Criminal Code, partly due to the fact that freedom of speech is given priority consideration in Denmark. The few cases that are brought to court only result in a fine. Between January 2001 and the end of September 2003, 23 cases were brought to court against 32 people and 24 convictions were passed, which included a 20 days’ imprisonment sentence. On this question, some NGOs have informed ECRI that the number of racist statements made by, inter alia, members of the Danish People’s Party (which has been supporting the Government since 2002) has increased dramatically in the last few years. In 2003, 16 court decisions were rendered against politicians under Article 266 b) of the Criminal Code and NGOs have noted an increase in 2005 in the number of complaints against politicians, especially for statements made regarding Muslims and Islam. 3 NGOs point out that this is partly linked to the local elections held on 15 November 2005 as politicians often resort to populist rhetoric to win votes. Very few cases are brought to court and there are few convictions in Denmark for racist or discriminatory acts, mainly due to the fact that the judges, prosecutors and lawyers do not take adequate notice of the relevant national and international legislation. The Danish Ministry of Justice has informed ECRI in this regard, that it is considering publicizing the jurisprudence on these questions on its internal WebPages for the benefit of local prosecutors as well as local police forces. However, for the moment,</p> | <p>The Danish Government made a decision in 2002 to either withdraw or limit the funds previously allocated to many NGOs and other specialised bodies, as they were considered by the Government to be “judges of taste” who were attempting to “repress public debate with their tyranny”. As a result, many NGOs and bodies dealing with racial discrimination have either closed down or have severely limited the scope of their activities. This compounded with the many problems faced by the Complaints Committee, has created a vacuum that has placed minority groups in an even more vulnerable situation than noted in the second ECRI report (European Commission Against Racism and Intolerance) of 2001, as there are now very few organisations which are able to address issues of particular concern to them. The lack of voices that can bring the problems faced by minority groups, refugees and asylum seekers to the forefront of the public debate and thus provide a counterbalance to the manner in which they are perceived by the public at large has contributed to a climate of intolerance against them. In this regard, many NGOs have indicated that a Discrimination Ombudsman who would take up cases of racial discrimination in the Danish administration is needed in Denmark. They consider such a measure all the more necessary as the current Parliamentary Ombudsman does not examine whether there is a discriminatory element in the manner in which public authorities implement the law.</p> <p>Source: ECRI Report on Denmark, 2006, available at http://hudoc.ecri.coe.int/XML/Ecri/</p> |
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| | | | | <p>judges, lawyers and prosecutors receive very little formal training on racism and racial discrimination either during their training period or when they have started their career. ECRI is further deeply concerned by reports according to which some judges show prejudice towards ethnic minority witnesses and defendants. Although in 2003, a number of cases of incitement to racial hatred in general, and against Muslims in particular were successfully prosecuted, ECRI notes that the police are generally reluctant to investigate complaints made by Muslims concerning hate speech directed against them.</p> <p>Source: ECRI Report on Denmark, 2006, available at http://hudoc.ecri.coe.int/XML/Ecri/ENGLISH/Cycle_03/03_CbC_eng/DNK-CbC-III-2006-18-ENG.pdf</p> | <p>ENGLISH/Cycle_03/03_CbC_eng/DNK-CbC-III-2006-18-ENG.pdf</p> |
| <p>Estonia</p> | <p>Constitution <u>Article 9 (1)</u>: The rights, liberties, and duties of everyone and all persons, as listed in the Constitution, shall be equal for Estonian citizens as well as for citizens of foreign states and stateless persons who are present in Estonia.</p> <p><u>Article 12</u>: (1) All persons shall be equal before the law. No one may be discriminated against on the basis of nationality, race, color, sex, language, origin, creed, political or other persuasions, financial or social status, or other reasons. (2) The propagation of national, racial, religious or political hatred, violence or discrimination is prohibited and punishable by law. The propagation of hatred, violence or discrimination between social strata is equally prohibited and punishable by law.</p> | <p>Constitution <u>Article 40</u>: (1) Everyone shall have freedom of conscience, religion and thought. ...</p> <p><u>Article 45</u>: (1) Everyone shall have the right to freely circulate ideas, opinions, persuasions, and other information by word, print, picture and other means. This right may be restricted by law for the purpose of protecting public order or morals, or the rights and liberties, health, honor and reputation of others. The law may likewise restrict this right for state and local government officials, for the purpose of protecting state or business secrets or confidential communication, which due to their service the officials have access to, as well as of protecting the family life and privacy of other persons, and in the interests of justice. (2) There shall be no censorship.</p> | <p>The ECRI notes that the Equal Treatment Act is, generally, in conformity with its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination. Estonia still has not ratified Protocol No. 12 to the European Convention on Human Rights. The provisions of the Criminal Code regarding racism are still very rarely implemented, primarily due to Article 151 which criminalises such acts only if they result in danger to the life, health or property of a person. ECRI therefore considers that the Criminal Code does not, in fact, punish hate speech independently of specific consequences. Measures to train judges, prosecutors, employers and employment agencies as well as public servants are necessary to ensure the full implementation of the Equal Treatment Act.</p> | <p>The authorities have informed ECRI that since its third report, no one has been arrested or brought to court for a violation of Article 151 of the Criminal Code. It does not appear that there have been cases where the media has been prosecuted for incitement to racial hatred. One person was fined for anti-semitism on the Internet.</p> <p>Source: ECRI Report on Estonia, 2010, available at http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Estonia/EST-CbC-IV-2010-003-ENG.pdf</p> | <p>Estonian authorities have adopted an Estonian Integration Strategy 2008-2013, which is a follow-up to the Integration in Estonia Strategy 2000-2007, and aims to ensure the integration of, amongst others, Russian-speaking minorities and stateless persons at the following 3 levels: 1) educational and cultural; 2) social and economic, and 3) legal and political. The Estonian authorities have informed ECRI that a mid-term review of the implementation of this strategy will be carried out in 2010. The Estonian Integration Strategy 2008-2013 contains a number of wide-ranging goals to address issues of concern to Russian-speaking minorities and stateless persons, including providing Estonian language lessons, combating inequalities between Russians and Estonians in the employment sector, reducing the number of stateless persons as</p> |

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| | <p>Criminal Code Article 151: (1) Activities which publicly incite to hatred, violence or discrimination on the basis of nationality, race, colour, sex, language, origin, religion, sexual orientation, political opinion, or financial or social status if this results in danger to the life, health or property of a person are punishable by a fine of up to 300 fine units or by detention. (2) Same act, if 1) if it causes the death of a person or results in damage to health or other serious consequences, or 2) it was committed by a person who has previously been punished by such act, or 3) it was committed by a criminal organisation, - is punishable by pecuniary punishment or up to 3 years' imprisonment. Article 152: (1) Unlawful restriction of the rights of a person or granting of unlawful preferences to a person on the basis of his or her nationality, race, colour, sex, language, origin, religion, sexual orientation, political opinion, financial or social status is punishable by a fine of up to 300 fine units or by detention. (2) The same act, if committed: 1) at least twice, or 2) significant damage is thereby caused to the rights or interests of another person protected by law or to public interests, is punishable by a pecuniary punishment or up to one year of imprisonment.</p> <p>Equal Treatment Act (2008) Article 1: (1) The purpose of this Act is to ensure the protection of persons against discrimination on the grounds of nationality (ethnic origin), race, colour, religion or other beliefs, age, disability or sexual orientation. (2) In order to fulfil the objective</p> | | <p>Further measures are still necessary to reduce the number of stateless people, as they comprise 8 % of the population. Roma are particularly vulnerable to discrimination in employment and continue to be the subject of stereotypes and prejudice, sometimes carried by the media, and Roma children continue to be placed in specialised schools for disabled children when they are not disabled. A high dropout rate and late entry into the school system also continues to be noted among Roma children. Measures to combat racially-motivated crimes still need to be improved in terms of police registration of such crimes as well as their treatment of the victims as reports indicated lacunae in this area. The authorities further need to improve their response to anti-semitic acts.</p> <p>Source: ECRI Report on Estonia, 2010, available at http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Estonia/EST-CbC-IV-2010-003-ENG.pdf</p> | | <p>well as preserving the culture and identity of ethnic minorities. In 2007, Estonia joined the Task Force for International Cooperation on Holocaust Education, Remembrance and Research and a Teacher's Guide to the Holocaust. In addition, in accordance with the law which provides for mother tongue teaching at the request of the parents of at least 10 children, 2 schools are operating with government funding.</p> <p>Source: ECRI Report on Estonia, 2010, available at http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Estonia/EST-CbC-IV-2010-003-ENG.pdf</p> |
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| | <p>specified in subsection (1) of this section, the following shall be provided by law:</p> <ol style="list-style-type: none"> 1) the principles of equal treatment; 2) duties upon implementation and promotion of the principle of equal treatment; 3) resolution of discrimination disputes. <p><u>Article 2: Scope of application of Act</u></p> <p>(1) Discrimination of persons on the grounds of nationality (ethnic origin), race or colour is prohibited in relation to:</p> <ol style="list-style-type: none"> 1) conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion; 2) entry into employment contracts or contracts for the provision of services, appointment or election to office, establishment of working conditions, giving instructions, remuneration, termination of employment contracts or contracts for the provision of services, release from office; 3) access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience; 4) membership of, and involvement in, an organisation of employees or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations; 5) social protection, including social security and healthcare, and social advantages; 6) education; 7) access to and supply of goods and services which are available to the public, including housing. | | | | |
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| | <p>(2) Discrimination of persons on the grounds of religion or other beliefs, age, disability or sexual orientation is prohibited in relation to:</p> <p>1) conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion;</p> <p>2) entry into employment contracts or contracts for the provision of services, appointment or election to office, establishment of working conditions, giving instructions, remuneration, termination of employment contracts or contracts for the provision of services, release from office;</p> <p>3) access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience;</p> <p>4) membership of, and involvement in, an organisation of employees or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations.</p> <p>(3) This Act does not preclude the requirements of equal treatment in labour relations on the basis of attributes not specified in subsection 1 (1) of this Act, in particular due to family-related duties, social status, representation the interests of employees or membership in an organisation of employees, level of language proficiency or duty to serve in defence forces.</p> <p>(4) The Administrative Procedure Act applies to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.</p> | | | | |
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| | <p>Law on Employment Contracts <u>Section 10:</u> 10. Prohibition on discrimination against employees (3) Discrimination prohibited on the basis of subsections (1) and (2) of this section shall be taken to occur where a person applying for employment or an employee is discriminated against on grounds of sex, racial origin, age, ethnic origin, level of language proficiency, disability, sexual orientation, duty to serve in defence forces, marital or family status, family-related duties, social status, representation the interests of employees or membership in workers' associations, political opinions or membership in a political party or religious or other beliefs.</p> | | | | |
| <p>France</p> | <p>Penal Code <u>Article 225:</u> 1) Discrimination comprises any distinction applied between natural persons by reason of their origin, sex, family situation, physical appearance or patronymic, state of health, handicap, genetic characteristics, sexual morals or orientation, age, political opinions, union activities, or their membership or non-membership, true or supposed, of a given ethnic group, nation, race or religion. Discrimination also comprises any distinction applied between legal persons by reason of the origin, sex, family situation, physical appearance or patronymic, state of health, handicap, genetic characteristics, sexual morals or orientation, age, political opinions, union activities, membership or non-membership, true or supposed, of a given ethnic group, nation, race or religion of one or more members of these legal persons. 2) Discrimination defined by</p> | <p>Declaration of the Rights of Man and of the Citizen (included in the Preamble of the Constitution) <u>Article 11:</u> The free communication of ideas and opinions is one of the most precious of the rights of man. Every citizen may, accordingly, speak, write, and print with freedom, but shall be responsible for such abuses of this freedom as shall be defined by law. Law on the Freedom of the Press (29 July 1881) <u>Article 24-6:</u> Are punished by the penalties provided for in the sixth paragraph of Article 24, those who have challenged by one of the means set forth in Article 23, the existence of one or more crimes against humanity as defined by Article 6 of the Statute of the International Military Tribunal annexed to the London Agreement of 8 August 1945 and have been committed either by members of an organization declared criminal under Article 9 of that statute, or by a person</p> | <p>Tant les questions d'incitation à la haine raciale, de discriminations que de liberté d'expression font traditionnellement l'objet de débats publics intenses en France, et ceux-ci ont été particulièrement vifs depuis la présidence de Nicolas Sarkozy en 2007. La question de la discrimination a atteint son paroxysme avec la polémique qui entoure depuis le début de l'été 2010 la question du démantèlement des campements illégaux et du rapatriement des Roms en Roumanie et Bulgarie et qui est toujours en cours. Il est en tout état de cause ardu de résumer en quelques lignes la nature et l'enjeu -entre autres politique- du débat public entourant ces questions auxquelles la société civile -avec entre autres un secteur associatif très réactif et des réseaux académiques/universitaires très engagés- ainsi que les organisations syndicales sont de plus particulièrement sensibles</p> | <p>Concernant plus spécifiquement les réfugiés et s'agissant de la question de la liberté d'expression, aucune disposition juridique interne n'édicte d'obligation de réserve à leur rencontre (même si celle-ci a pu être invoquée dans le passé mais aucune affaire n'a été signalée depuis l'affaire Diouri en juin 1991 (<i>un réfugié marocain -auteur d'un livre sur Mohamed V- expulsé vers le Gabon</i>). Plus précisément, la Commission nationale du droit d'asile (CNDA), juge en appel des décisions de l'OFPRA, pourrait être amenée à connaître dans le cadre de ses attributions consultatives des décisions d'éloignement du territoire relevant du champ d'application des articles 31, 32 et 33 de la convention de Genève de 1951 -et qui auraient pu être prises pour atteinte grave à l'ordre public en relation avec les questions d'incitation à la haine raciale et de liberté d'expression- mais aucune demande d'avis à cet égard n'a été adressée à la CNDA depuis de nombreuses</p> | <p>Outre le fait que la France est en train de préparer un plan national de lutte contre le racisme, nous pouvons mentionner les initiatives utiles qui ont été prises ces dernières années sur la question de la lutte contre l'incitation à la haine raciale avec : * la création de mécanismes étatiques pour prévenir et combattre la discrimination raciale au niveau départemental avec les commissions pour la promotion de l'égalité des chances et de la citoyenneté (COPEC) et en 2007 les pôles anti-discrimination dans les Parquets des tribunaux de grande instance, * la création d'un organisme officiel indépendant par la loi du 30 décembre 2004, la HALDE (Haute Autorité de Lutte contre les discriminations et pour l'égalité), <i>qui a pour mission générale de lutter contre les discriminations directes ou indirectes prohibées par la loi, de fournir toute l'information nécessaire, d'accompagner les</i></p> |

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| | <p>article 225-1, committed against a natural or legal person, is punished by three years' imprisonment and a fine of €45,000 where it consists:</p> <p>1° of the refusal to supply goods or services; 2° of obstructing the normal exercise of any given economic activity; 3° of the refusal to hire, to sanction or to dismiss a person; 4° of subjecting the supply of goods or services to a condition based on one of the factors referred to under article 225-1; 5° of subjecting an offer of employment, an application for a course or a training period to a condition based on one of the factors referred to under article 225-1; 6° of refusing to accept a person onto one of the courses referred to under 2° of article L.412-8 of the Social Security Code. Where the discriminatory refusal referred to under 1° is committed in a public place or in order to bar the access to this place, the penalties are increased to five years' imprisonment and to a fine of €75,000.</p> <p>3) The provisions of the previous article do not apply to:</p> <p>1° discrimination based on state of health, when it consists of operations aimed at the prevention and coverage of the risk of death, of risks for the physical integrity of the person, or the risk of incapacity to work or invalidity. However, when it is based on the consideration of predictive genetic tests relating to an illness that has not yet commenced or the genetic predisposition towards an illness, this discrimination is punished by the penalties provided for by the previous article;</p> <p>2° discrimination based on state of health or handicap, if it consists of a refusal to hire or dismiss based on a medically established incapacity, according to either the provisions of title IV of book II of</p> | <p>convicted of such crimes by a French or international court. ...</p> <p><u>Article 29:</u> Any allegation or imputation of a fact which undermines the honor or reputation of the person or body to which the act is attributed is a libel. The publication or reproduction by the allegation or imputation is punishable, even if done as doubtful or if it is for a person or body not specifically named, but whose identification is made possible by the wording of the speeches, shouting, threats, written or printed placards or posters. Any offensive expression, terms of contempt or invective which does not contain any imputation of fact is an insult.</p> <p><u>Article 32:</u> The defamation of individuals by one of the means set forth in Article 23 shall be punished by a fine of 12,000 euros. Defamation committed by the same means against a person or group of persons because of their origin or their belonging or not belonging to their ethnic group, nation, race or religion is punishable by one year imprisonment and a fine of € 45,000 or one of these two penalties. ...</p> <p>Civil Code</p> <p><u>Article 9:</u> Everyone has the right to respect for his private life. Without prejudice to compensation for injury suffered, the court may prescribe any measures, such as sequestration, seizure and others, appropriate to prevent or put an end to an invasion of personal privacy; in case of emergency those measures may be provided for by interim order.</p> | <p>mais il est indéniable que la France fait actuellement l'objet d'un examen très attentif par diverses instances régionales - notamment de la Commission européenne- et internationales et que les nombreuses (26) préoccupations/ recommandations du Comité des NU pour l'élimination de la discrimination raciale à la suite de l'examen de la France en août 2010 sont assez éloquentes à cet égard.</p> <p>Aussi, dans le cadre de la présente demande, il nous semble nécessaire de limiter nos observations aux populations des demandeurs d'asile/réfugiés/éventuellement des déboutés.</p> <p>Nous ne voyons pas de problèmes particuliers à signaler en ce qui concerne la liberté d'expression, dont ils bénéficient pleinement à l'instar des ressortissants français et dans les limites susmentionnées.</p> <p>Concernant la question de l'incitation à la haine raciale (ou religieuse), il nous semble utile de mentionner le problème posé par la présence en France de quelques ressortissants rwandais (déboutés de leur demande d'asile) susceptibles d'être des génocidaires.</p> <p>La politique des autorités françaises les concernant -mais également les pratiques du secteur judiciaire- ne sont pas vraiment claires -voire cohérentes- et un certain laxisme, pour le moins, pourrait leur être reproché dans la mesure où il semble qu'elles n'ont pas nécessairement fait diligence pour répondre à toutes les demandes d'extradition du TPI d'Arusha comme elles en ont l'obligation légale.</p> | <p>années.</p> <p>As regards the criminal justice system's response to racist offences, the National Consultative Commission for Human Rights (CNCDH), which has been monitoring this question for a number of years, noted in its 2008 report that over the previous five years, the number of convictions for racist or anti-semitic offences had grown. The CNCDH considers that this increase reflects an improved response to this type of offence by the criminal courts. It believes that the figures can be linked to the initial impact on the criminal justice system's activities, as from 2005, of the new rules and new operating methods (in particular the appointment of contact prosecutors introduced in 2004. In the official statistics provided by the government there has been an increase in criminal convictions for racist acts in the last few years. These statistics indicate that, on the whole, the number of new racist, anti-semitic or "anti-religion" cases registered by prosecutors' offices tends to increase and that the percentage of cases in which there has been a "criminal – justice - response" has also increased slightly. Extensive use was made of procedural alternatives to prosecution, which primarily have an educational purpose, in particular for cases involving under-age or young-adult offenders. In general, anti-racism NGOs have informed ECRI that they too have noted an improvement in the criminal justice system's response to racist acts in recent years. However, in a few rare instances, they did not know, or comprehend, why decisions had been taken to drop certain cases or to deem that the racist</p> | <p>victimes, d'identifier et de promouvoir les bonnes pratiques pour faire entrer dans les faits le principe d'égalité. Elle peut se saisir d'office ou être saisie par tout citoyen ou encore par les associations et elle dispose de pouvoirs d'investigation,</p> <p>* la création par la loi du 31 mars 2006 de l'Agence nationale pour la cohésion sociale et l'égalité des chances (Acsé), qui soutient la mise en œuvre des politiques publiques visant à prévenir les discriminations raciales et à promouvoir l'égalité de traitement,</p> <p>* la création par la loi du 9 mars 2004 susmentionnée d'une nouvelle peine (également applicable aux mineurs), le stage de citoyenneté, qui a pour objet de rappeler, notamment à l'auteur d'un acte raciste ou antisémite, les valeurs républicaines de tolérance et de respect de la dignité humaine,</p> <p>* l'instauration d'un numéro d'appel gratuit (le 114) pour les victimes de discrimination raciale,</p> <p>* l'acceptation des CV anonymes,</p> <p>* les très nombreuses actions de sensibilisation faites dans le cadre de l'école,</p> <p>* la création en 2009 « d'internats d'excellence » pour les élèves de quartiers défavorisés et souvent issus de l'immigration et l'augmentation notable de la proportion de boursiers dans les grandes écoles (30% en 2010) destinée entre autres à ces mêmes publics, efforts considérés comme une priorité nationale.</p> |
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| | <p>the Labour Code, or of the laws defining the statutory framework of the public service;</p> <p>3° recruitment discrimination based on gender when the fact of being male or female constitutes the determining factor in the exercise of an employment or professional activity, in accordance with the provisions of the Labour Code or of the laws defining the statutory framework of the public service.</p> <p>4) Legal persons may incur criminal liability for the offence defined under article 225-2, pursuant to the conditions set out under article 121-2. The penalties incurred by legal persons are:</p> <p>1° a fine, pursuant to the conditions set out under article 131-38;</p> <p>2° the penalties enumerated under 2°, 3°, 4°, 5°, 8° and 9° of article 131-39.</p> <p>The prohibition referred to in 2° of article 131-39 applies to the activity in the exercise of which or on the occasion of the exercise of which the offence was committed.</p> <p>18) Where the offences defined under the previous article were committed by reason of the membership or non-membership, true or supposed, of the deceased persons to any given ethnic group, nation, race or religion, penalties are increased to three years' imprisonment and to a fine of €45,000 in for the offences defined under the first two paragraphs of article 225-17 and to five years' imprisonment and to a fine of €75,000 in relation to the offence defined by the last paragraph of that article.</p> <p><u>Article 624</u></p> <p>3) Private defamation against a person or group of persons based on their origin, or their belonging or non membership -real or</p> | | <p>Sur le plan plus général des discriminations raciales -dont les réfugiés vivant en France peuvent souffrir au même titre que les étrangers de droit commun mais pas plus à notre avis- malgré les efforts des pouvoirs publics et sous divers gouvernements de s'attaquer au problème général de la discrimination raciale à l'emploi et au logement et malgré le fait que cette discrimination fait l'objet d'un traitement plus protecteur que les autres types de discriminations, le chantier reste immense, complexe et la question plus générale de l'intégration des populations immigrées constituera sans doute l'une des préoccupations majeures des gouvernements futurs pour encore un certain nombre d'années.</p> <p>Les autorités françaises se sont d'ailleurs vues remettre un cahier des charges par le Comité des NU susmentionné assez lourd (avec quelques brefs délais pour démontrer les améliorations faites ...).</p> <p>Parmi les recommandations du Comité, nous relevons que la France -qui invoque officiellement l'article premier de sa Constitution selon lequel elle est une République indivisible qui assure l'égalité devant la loi de tous les citoyens sans distinction d'origine, de race ou de religion, pour ne pas procéder à un recensement de la population fondé sur des indicateurs ethniques ou raciaux- s'est vue expressément demander par ledit Comité d'affiner les statistiques démographiques, en particulier celles relatives aux personnes issues de l'immigration ou de groupes ethniques et de procéder à un recensement sur la base d'une auto-identification ethnique</p> | <p>motivation of an offence had not been established. The one problem which remains outstanding is the too high number of victims of racist acts who hesitate to lodge complaints, particularly with the police.</p> <p>Source: ECRI Report on France, 2010, available at: http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/France/FRA-CbC-IV-2010-016-ENG.pdf</p> | |
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| | <p>presumed- to an ethnic group, nation, race or religion, is punishable by the fine provided for violations of the 4th class. ...</p> <p>4) Private insult committed against a person or group of persons because of their origin or their belonging or non-membership, real or supposed, to an ethnic group, nation, race or religion is punishable by the fine for violations of the 4th class....</p> <p><u>Article 132</u> 76) The sentence imposed for a crime or misdemeanor is greater when the infraction is committed due to the victim's adherence or non-adherence, real or imagined, to a particular ethnic group, nation, race or religion. The aggravating circumstance defined in the first paragraph is established when the offense is preceded, accompanied or followed by, writing, images, objects or acts of any kind detrimental to the honor or reputation of the victim or group to which the victim belongs because of their membership or non-membership, real or supposed, to an ethnic group, nation, race or religion.</p> <p>See Addendum</p> | | <p>ou raciale qui soit volontaire et anonyme.</p> <p>Nous avons été étonnés en revanche que ne figure pas dans lesdites recommandations la nécessité de réviser la liste des emplois « réservés » aux ressortissants français, soit un vivier considérable de possibilités d'accès au marché de l'emploi dans un pays où de plus la fonction publique tient une part particulièrement importante. Les raisons pour interdire ou limiter un certain nombre de professions aux étrangers/réfugiés semblent de plus en plus archaïques et contraires aux intérêts économiques du pays mais malgré cela, les voix qui s'élèvent depuis plusieurs années de façon argumentée pour revenir dessus, émanant notamment d'associations spécialisées et reconnues, ne sont toujours pas entendues.</p> <p>Concernant le climat général qui s'est beaucoup dégradé en France depuis quelques années avec une augmentation notable des crimes et délits à caractère raciste (et antisémite), l'on se félicitait jusqu'à présent que les populations des demandeurs d'asile/réfugiés n'étaient pas ciblées en tant que telles comme cela pouvait être le cas dans d'autres pays de l'UE mais plusieurs faits sont venus en 2010 contredire ce constat (avec notamment l'incendie criminel d'un campement de « migrants » et demandeurs d'asile Afghans à Cherbourg en septembre et des actes de dégradation d'un CADA (centre d'accueil pour demandeurs d'asile quelques mois auparavant). S'ils restent rares, il nous semble que ces passages à l'acte traduisent un tournant inquiétant d'une certaine opinion publique.</p> | | |
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| | | | <p>Cela dit, si l'on peut avoir des motifs d'inquiétude sur l'amélioration rapide de la situation présente, s'agissant du débat public, il nous semble qu'il est riche, nourri, que de nombreux media importants sont souvent en première ligne sur ces premières questions et vigilants, qu'il y a un réel intérêt pour ces questions au sein du grand public, et que les dérapages, notamment verbaux de la part de certains responsables politiques, font l'objet d'une véritable critique et d'un contrôle, éventuellement judiciaire. En revanche, le développement de discours racistes sur Internet est très préoccupant et les pouvoirs publics se sont vus demander par le comité des NU déjà cité à l'issue de la session d'août 2010 de prendre les mesures appropriées pour le combattre.</p> <p>(See Addendum)</p> | | |
| <p>Germany</p> | <p>Basic Law (Constitution) <u>Article 3 – Equality before the law:</u> (1) All persons shall be equal before the law. (2) Men and women shall have equal rights. The state shall promote the actual implementation of equal rights for women and men and take steps to eliminate disadvantages that now exist. (3) No person shall be favoured or disfavoured because of sex, parentage, race, language, homeland and origin, faith, or religious or political opinions. No person shall be disfavoured because of disability.</p> <p>Criminal Code <u>Section 130 - Agitation of the People:</u> (1) Whoever, in a manner that is capable of disturbing the public</p> | <p>Basic Law (Constitution) <u>Article 5 - Freedom of expression, arts and sciences:</u> (1) Every person shall have the right freely to express and disseminate his opinions in speech, writing and pictures, and to inform himself without hindrance from generally accessible sources. Freedom of the press and freedom of reporting by means of broadcasts and films shall be guaranteed. There shall be no censorship. (2) These rights shall find their limits in the provisions of general laws, in provisions for the protection of young persons, and in the right to personal honour. (3) Arts and sciences, research and teaching shall be free. The freedom of teaching shall not</p> | <p>The success in local and regional elections of certain parties expressing racist, anti-semitic or revisionist views is worrying, and support for such parties has increased in recent years. At the same time, and despite the considerable efforts of the authorities to combat racism, xenophobia and anti-semitism and promote a tolerant society, incidents of hate speech continue to occur, including racist propaganda on the internet, and neither the prevalence of racist expression on the internet nor the number of Neo-Nazis and other right-wing extremists appear to have decreased. As regards the expression of racist views at public gatherings, in March 2006, §130.4 of the Criminal Code was strengthened. It now provides that a person who publicly or in a</p> | <p>In the field of criminal law, the authorities have been active in investigating and prosecuting members of neo-Nazi groups. Section 130 of the Criminal Code was strengthened in March 2006, with respect to the expression of racist views at public gatherings. The number of demonstrations by neo-Nazi organisations is reported to have decreased in 2007 thanks to this change. Section 129 of the Criminal Code has also been successfully used to sentence the members of a right-wing extremist music group. Successes in fighting racist, xenophobic or anti-semitic speech on the internet have also been achieved. Beyond prosecuting individual offences, the authorities have adopted a range of measures aimed at fighting right-wing extremist,</p> | |

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| | <p>peace:</p> <p>1. incites hatred against segments of the population or calls for violent or arbitrary measures against them; or</p> <p>2. assaults the human dignity of others by insulting, maliciously maligning, or defaming segments of the population, shall be punished with imprisonment from three months to five years.</p> <p>(2) Whoever:</p> <p>1. with respect to writings (Section 11 subsection (3)), which incite hatred against segments of the population or a national, racial or religious group, or one characterized by its folk customs, which call for violent or arbitrary measures against them, or which assault the human dignity of others by insulting, maliciously maligning or defaming segments of the population or a previously indicated group:</p> <p>a) disseminates them;</p> <p>b) publicly displays, posts, presents, or otherwise makes them accessible;</p> <p>c) offers, gives or makes accessible to a person under eighteen years; or</p> <p>d) produces, obtains, supplies, stocks, offers, announces, commends, undertakes to import or export them, in order to use them or copies obtained from them within the meaning of numbers a through c or facilitate such use by another; or</p> <p>2. disseminates a presentation of the content indicated in number 1 by radio,</p> <p>shall be punished with imprisonment for not more than three years or a fine.</p> <p>(3) Whoever publicly or in a meeting approves of, denies or renders harmless an act committed under the rule of National Socialism of the type indicated in Section 220a subsection (1), in a manner capable of disturbing the public</p> | <p>release any person from allegiance to the constitution.</p> | <p>gathering disturbs the public peace by harming the dignity of the victims of the Nazi regime or who approves, glorifies or justifies the genocide committed under the Nazi regime can be sentenced to imprisonment for up to three years. This section applies in particular to memorial places of Holocaust victims. According to the Ministry of the Interior, the number of demonstrations by neo-Nazi organisations clearly decreased in 2007 (down from 126 in 2006 to 66 in 2007), thanks to the intensified application of §130.4 of the Criminal Code. The authorities have also referred to section 129 of the Criminal Code, which prohibits forming, being a member of, recruiting members to or supporting organisations of which the aims or activity are directed towards the commission of crimes. This provision was successfully used to sentence the members of a right-wing extremist music group that sought to use their band as a political instrument and to stir up hatred.</p> <p>Some worrying developments have occurred in the political arena in Germany. The success in Mecklenburg-Western Pomerania in 2006 of the National Democratic Party (NPD) – which has flags and symbols similar to Nazi paraphernalia and which was labelled as “racist, anti-semitic and revisionist” in the 2006 Verfassungsschutzbericht – is a particular case in point. The leader and two senior members of the NPD were indicted in early 2008 on charges of racial incitement. Support for the party, which receives state funding, quadrupled in local elections in Saxony in June 2008, and it is now represented in all 10 regional councils of Saxony.</p> | <p>xenophobic and anti-semitic crimes. These include supporting victims, assisting perpetrators to break out of extremist groups and seeking to prevent young people from going down the path of extremist activity. The police are also taking an increasingly active role in working to prevent racist, xenophobic and anti-semitic crime. Local programmes continue to be funded, although some on only a short-term basis.</p> <p>At the time of writing, debates were also occurring on the possibility of introducing racist motivations as a specific aggravating circumstance under section 46 of the Criminal Code. Although the concept of “hate crimes” is not expressly recognised as such in the German Criminal Code since 2001 the police have gathered statistics on “politically motivated offences” (divided into four categories: “left-wing”, “rightwing”, politically motivated activities by foreigners and other types of politically motivated crimes). These statistics cover, inter alia, offences directed against individuals due to their political beliefs, nationality, ethnic origin, race, colour, religion, ideology, origin, sexual orientation, disability, appearance or social status. Offences are considered to be “extremist” if they are aimed at overthrowing the state. Xenophobic crimes (committed due to the victim’s real or perceived nationality, ethnicity, race, skin-colour, religion or origin) and anti-semitic crimes (committed because of an anti-Jewish sentiment) are registered as sub-groups of these offences. The vast majority of anti-semitic and xenophobic crimes recorded as politically motivated offences are registered in the right-wing category.</p> | |
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| | <p>piece shall be punished with imprisonment for not more than five years or a fine.</p> <p>(4) Subsection (2) shall also apply to writings (Section 11 subsection (3)) with content such as is indicated in subsection (3).</p> <p>(5) In cases under subsection (2), also in conjunction with subsection (4), and in cases of subsection (3), Section 86 subsection (3), shall apply correspondingly.</p> | | <p>Supporters of this party have distributed xenophobic and anti-semitic tracts in schools in several Länder and chanted anti-semitic slogans during protest marches. Attempts to ban the party in 2003 failed, as some evidence against it had been improperly gathered by undercover informants; however, suggestions that efforts should be made to have the party banned resurfaced in 2008. Meantime, the far-right German People's Union (DVU) won a number of seats in the Brandenburg legislature. As mentioned elsewhere in this report, a single-issue anti-mosque movement created in Cologne won 5% of votes (as well as 5 seats) in recent local elections there. While most mainstream parties have for the most part avoided racist comments or overtones, some discourse aimed at Muslims has tended to focus essentially on security issues, or on a supposed integration deficit of Muslims in German society.</p> <p>Source: ECRI Report on Germany, 2009, available at: http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/germany/deu-cbc-iv-2009-019-eng.pdf</p> | <p>Overall, 24.4% of right-wing politically motivated crimes recorded in 2007 were considered to be hate crimes. In 2007, the Federal Criminal Police Office registered 17,176 politically motivated offences, of which 980 were acts of violence. In 2006, 17,597 such offences were recorded, 1,047 of which were acts of violence. 16% of registered right-wing extremist offences registered in 2007 were recorded as having a xenophobic background. NGOs working with victims of such crimes note, however, that the parallel statistics they keep of racist incidents reported to them are consistently higher than the official statistics for the relevant politically motivated offences. Representatives of victims of racist violence also emphasise that one of the key barriers to successful prosecutions of offenders in this field is the narrow understanding of racism that currently prevails in Germany. As mentioned above (§ 84), there is no definition of racism in German law but it is understood (including in official documents) as a view held essentially by right-wing extremists, and based on considerations as to the supposed biological superiority of certain "races" over others. NGOs point out that this understanding is widespread throughout German society, including in the criminal justice system, i.e. amongst police, prosecutors and judges. Thus, unless the perpetrators of crimes are clearly identifiable as members of right-wing extremist groups or sympathisers of such groups, crimes based on racist motivations may not be investigated or prosecuted as such. Even if they are, judges' understanding of racism,</p> | |
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| | | | | <p>combined with the absence of a specific reference in the Criminal Code to racist motivations as an aggravating circumstance for ordinary offences may again make it difficult to get an appropriate conviction. ECRI is concerned that because of this, persons having committed racist offences may be escaping due prosecution and punishment for their acts. The mere fact that the perpetrator of a violent crime has no manifest links with the extreme right-wing scene does not mean that they had no racist motivations for their act.</p> <p>Source: ECRI Report on Germany, 2009, available at: http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/germany/deu-cbc-iv-2009-019-eng.pdf</p> | |
| <p>Greece</p> | <p>Law L. 927/1979 <u>Article 1:</u> Whoever, either orally or in the press or in written articles or images or by any other means, incites on purpose actions possible to cause discrimination, hatred or violence against persons based only on reasons of racial or national origin, is punished with imprisonment up to two years or with a fine or with both punishments</p> | <p>Constitution <u>Article 14:</u> 1. Every person may express and propagate his thoughts orally, in writing and through the press in compliance with the laws of the State. 2. The press is free. Censorship and all other preventive measures are prohibited. 3. The seizure of newspapers and other publications before or after circulation is prohibited. Seizure by order of the public prosecutor shall be allowed exceptionally after circulation and in case of: a) an offence against the Christian or any other known religion. b) an insult against the person of the President of the Republic. c) a publication which discloses information on the composition, equipment and set-up of the armed forces or the fortifications of the country, or which aims at the violent overthrow of the regime or is directed against the territorial integrity of the State.</p> | <p>Although racist propaganda leading to violence against immigrants and refugees is an escalating phenomenon in Greece, limited action has been taken to tackle the issue. Incidents of racist violence are rarely reported to the police due to alleged indifference by the police and impunity of the perpetrators. Moreover, many of the victims are undocumented migrants or refugees who fear arrest and deportation in case they approach the police authorities to report such incidents. The authorities, on their part 'turn a blind eye' and do not initiate criminal procedures against extreme right groups who organise racist propaganda either on the internet or in the streets. Racist propaganda by so called "angry citizens", including members of the extreme right organisation 'Chrisi Avgi' is organised in urban areas, where there is a high concentration of immigrant and refugee population</p> | <p>Very limited jurisprudence on incitement to hatred exists. The most famous trial was the one of Kostas Pleuris who was accused for violations of L. 927/1979 (as writer of an allegedly anti-semitic book) but was found innocent at appeal stage. A number of persons have however been successfully prosecuted in the last couple of years for anti-semitic or anti-Roma publications : On 19 September 2008, the Court of Appeals of Athens sentenced the publisher of the newspaper "Eleftheros Kosmos" and one of its former columnists to a five-month suspended sentence under this law for an article in the newspaper's 12 March 2006 issue which contained anti-semitic statements. The same persons were also convicted, with a third defendant for an article published in the same paper on 18 June 2006 with language inciting hatred against Roma. On 13</p> | <p>A legislative Drafting Committee has been established in the Ministry of Justice with the aim of transposing into Greek legislation the Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.</p> <p>A Code of Police Ethics has been adopted and an order was issued in 2004 on the non-use of degrading terms by the police, either in writing or orally, against Roma. The Greek authorities have informed that the audiovisual and written media have adopted a code of conduct and that as concerns the former, the National Radio and Television Council can impose sanctions in cases of racist speech, and has done so. The authorities consider, however, that freedom of speech should prevail and emphasis should be placed on awareness-raising. The</p> |

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| | | <p>d) an obscene publication which is obviously offensive to public decency, in the cases stipulated by law.</p> <p>4. In all the cases specified under the preceding paragraph, the public prosecutor must, within twenty-four hours from the seizure, submit the case to the judicial council which, within the next twenty-four hours, must rule whether the seizure is to be maintained or lifted; otherwise it shall be lifted ipso jure. An appeal may be lodged with the Court of Appeals and the Supreme Civil and Criminal Court by the publisher of the newspaper or other printed matter seized and by the public prosecutor.</p> <p>5. The manner in which full retraction shall be made in cases of inaccurate publications shall be determined by law.</p> <p>6. After at least three convictions within five years for the criminal acts defined under paragraph 3, the court shall order the definitive ban or the temporary suspension of the publication of the paper and, in severe cases, shall prohibit the convicted person from practising the profession of journalist as specified by law. The ban or suspension of publication shall be effective as of the date the court order becomes irrevocable.</p> <p>7. Press offences shall be subject to immediate court hearing and shall be tried as provided by law.</p> <p>8. The conditions and qualifications requisite for the practice of the profession of journalist shall be specified by law.</p> <p>9. The law may specify that the means of financing newspapers and periodicals should be disclosed.</p> | <p>such as the area of Agios Panteleimonas in central Athens. It includes demonstrations shouting slogans against immigrants, dissemination of leaflets and recruitment of young members in schools.</p> | <p>December 2007, a person well known for his extreme right-wing opinions was also sentenced, by the Athens Court of Appeal under Law 927/1979, for a patently anti-semitic book to a 14 month suspended sentence and 3 years probation. However, the defendant appealed and was acquitted on 27 March 2009. Overall, law 927/1979 continues to be rarely implemented, although information indicates cases of incitement to racial hatred in Greece. For example, the leader of a right-wing extremist party, who often makes public anti-semitic and racist statements, including blaming immigrants for a surge in drug-related crimes and violence, has not been prosecuted for any of his statements under Law 927/1979 so far. There are also reports on reports of some prosecutors, including the chief prosecutor, making racist or anti-semitic statements without facing any sanctions. NGOs have further informed that the above cases were brought to court on their initiative. Therefore, more action on the Prosecutor's part is necessary in this regard as it appears that he rarely brings cases to court ex officio. The Greek authorities have informed that, for this purpose, a special Prosecutor has been recently appointed as a contact person in respect of such crimes and, by circular of the Ministry of Justice, all prosecutions based on Law 927/1979 are monitored, relevant statistical details being sent to the National Focal Point on Racism and Xenophobia.</p> <p>Source: the 2009 ECRI Report on Greece, available at: http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Greece/GRC-CbC-IV-2009-031-ENG.pdf.</p> | <p>authorities have informed that a campaign on multiculturalism in the media to promote cultural dialogue has been waged.</p> <p>Source: the 2009 ECRI Report on Greece, available at: http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Greece/GRC-CbC-IV-2009-031-ENG.pdf.</p> |
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| <p>Hungary</p> | <p>Constitution Article 70/A: (1) The Republic of Hungary shall ensure the human rights and civil rights for all persons on its territory without any kind of discrimination, such as on the basis of race, color, gender, language, religion, political or other opinion, national or social origins, financial situation, birth or on any other grounds whatsoever. (2) Any kind of discrimination described in paragraph (1) shall be strictly penalized by the statute. (3) The Republic of Hungary shall promote the equality of rights for everyone through measures aimed at eliminating the inequality in opportunity.</p> <p>Criminal Code Section 155: (1) The person who - with the aim of the total or partial extermination of a national, ethnic, racial or religious group - a) kills the members of the group, b) causes serious bodily or mental injury to the members of the group because they belong to the group, c) constrains the group into such conditions of life which menace the group or certain members thereof with death, d) takes such a measure which is aimed at the impediment of births within the group, e) displaces the children belonging to the group into another group commits a felony and shall be punishable with imprisonment from ten to fifteen years or life imprisonment. (2) The person who commits preparation for genocide, shall be punishable for a felony with imprisonment from two years to eight years.</p> <p>Section 157: (1) The person who - with the aim of the obtention and</p> | <p>Constitution Article 61: (1) In the Republic of Hungary everyone shall have the right to freedom of expression, and furthermore to receive and impart information of public interest. (2) The Republic of Hungary shall recognize and protect the freedom of the press. (3) A majority of two-thirds of the votes of the Members of Parliament present shall be required to pass the statute on the public access to information of public interest and the statute on the freedom of the press. (4) A majority of two-thirds of the votes of the Members of Parliament present shall be required to pass the statute on the supervision of public radio, television and the public news agency, as well as the appointment of the directors thereof, on the licensing of commercial radio and television, and on the prevention of information monopolies.</p> | <p>A particularly alarming development has occurred in Hungary in the form of a sharp rise in racism in public discourse. Anti-semitic articles regularly appear in the press and on the internet, and anti-Roma discourse appears to be becoming increasingly virulent and wide-spread. The creation and increasing visibility of one radical right-wing group in particular has led to grave concerns amongst members of civil society and the government, due not only to the group's openly anti-Roma and anti-semitic discourse but also to its paramilitary-style uniforms and insignia that are strongly reminiscent of a right-wing party that briefly held power in Hungary during the second World War, and during whose term in power tens of thousands of Jews and Roma were killed. At least one act of racist violence appears to have been linked to the racist discourse of this group. Building on, at least in part, from a series of highly charged anti-government demonstrations at the end of 2006, there has been a disturbing increase in racism and intolerance in public discourse in Hungary. In particular, the creation and rise of the radical right-wing Hungarian Guard (Magyar Garda) – a group bearing close ties to a well known radical right-wing political party – is consistently cited as a cause for deep concern. Since its creation in August 2007 and the public swearing in of several hundred new members in October 2007, the Hungarian Guard has organised numerous public rallies throughout the country, including in villages with large Roma populations; despite apparently innocuous articles of association, amongst the group's chief messages is the defence of</p> | | |
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| | <p>maintenance of domination by one racial group of people over another racial group of people and/or with the aim of the regular oppression of the other racial group -</p> <p>a) kills the members of a racial group or groups,</p> <p>b) constrains a racial group or groups to such conditions of life by which it strives for the total or partial physical annihilation of the groups</p> <p>commits a felony and shall be punishable with imprisonment from ten to fifteen years or life imprisonment.</p> <p>(2) The person who commits another crime of apartheid, shall be punishable for a felony from five to ten years.</p> <p>(3) The punishment shall be imprisonment from ten to fifteen years or life imprisonment, if the criminal act of apartheid described in subsection (2) has given rise to serious consequences.</p> <p>(4) For the purposes of subsections (2) and (3), the crime of apartheid shall mean the crime of apartheid defined in paragraphs a)/(ii), a)/(iii), c), d), e), and f) of Article II of the International Treaty on the Combat and Punishment of Crimes of Apartheid, adopted on 30 November 1973 by the General Assembly of the the United Nations Organisation in New York promulgated by Law-Decree No. 27 of 1976.</p> <p><u>Section 174/B:</u> (1) The person who assaults somebody else because he belongs or is believed to belong to a national, ethnic, racial or religious group, or coerces him with violence or menace into doing or not doing or into enduring something, commits a</p> <p>felony and shall be punishable with imprisonment up to five</p> | | <p>ethnic Hungarians against so-called "Gypsy crime". Members of the Hungarian Guard parade in matching, paramilitary-style black boots and uniforms, with insignia and flags closely resembling the flag of the Arrow Cross Party, an openly Nazi organisation that briefly held power in Hungary during World War II, and during whose spell in power tens of thousands of Jews and Roma were killed or deported.</p> <p>In January 2008, the Prosecutor General initiated court proceedings to ban the Hungarian Guard; at the time of writing, these proceedings were still pending. As reported by eyewitnesses, an ugly atmosphere prevailed, however, at the hearing held in spring 2008. No police were present outside the courtroom, and dozens of uniformed members of the group blockaded the room, filling it with their own supporters and physically preventing members of the public not wearing the group's colours from entering. A complaint, which is also still pending, was lodged against the judge for failing to keep order. Other extremist marches and rallies have also been held in recent months, along with increasingly strong counter-demonstrations. In February 2008, an annual rally commemorating the attempt by German and Hungarian troops to break out of a besieged Budapest in 1945 was held in the Budapest city centre. During the march, a wooden cross displaying the words "Blood and Honour" (the name of the banned extremist group of which the organiser of the rally was formerly a leader) was erected. At the same time, hundreds of anti-fascists protested nearby. In March, a neo-Nazi rally outside a Budapest ticket office attracted around</p> | | |
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| | <p>years.</p> <p>(2) The punishment shall be imprisonment from two years to eight years, if the act of crime is committed</p> <ul style="list-style-type: none"> a) by force of arms, b) in an armed manner, c) causing a considerable injury of interest, d) with the torment of the injured party, e) in groups, f) in criminal conspiracy. <p>Section 269: A person who incites to hatred before the general public against</p> <ul style="list-style-type: none"> a) the Hungarian nation, b) any national, ethnic, racial group or certain groups of the population, shall be punishable for a felony offense with imprisonment up to three years. <p>Section 269/B: (1) The person who</p> <ul style="list-style-type: none"> a) distributes; b) uses before great publicity; c) exhibits in public; <p>a swastika, the SS sign, an arrow-cross, sickle and hammer, a five-pointed red star or a symbol depicting the above, - unless a graver crime is realized - commits a misdemeanor, and shall be punishable with fine.</p> | | <p>1000 demonstrators; close by, around 3000 people, including the Prime Minister, held a counter-demonstration.</p> <p>Beyond the contents of the message propounded by the Hungarian Guard, civil society actors have emphasised their concern that some mainstream political parties have made little or no effort to distance themselves from the group, sending at least an implicit message to the broader public that there is nothing disquieting in its stance. Some NGOs have also underlined that by repeatedly giving prominent coverage to this group – which, though active and highly vocal, at present remains relatively small – the Hungarian media is contributing to its rise. Moreover, latent racist and xenophobic attitudes are already reported to be strong and deeply rooted. This is reflected, for example, in a survey carried out in February 2007 in which 68% of the respondents said they would not accept in Hungary immigrants and refugees from Pyresia, a fictitious country. It is also reflected in at least some instances of the media's reporting of crimes in which the accused is a member of the Roma minority, as well as in reactions in some villages to the arrival of Roma residents. Overall, many actors emphasise a trend in which racist and xenophobic discourses are increasingly seen as legitimate by Hungarian society.</p> <p>A permanent Holocaust Memorial Centre was opened in February 2006, and efforts have been made to determine the status and whereabouts of Hungary's Holocaust records. In addition, Act XLVII of 2006 created an opportunity to seek compensation for individuals whose immediate relatives were killed in the</p> | | |
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| | | | <p>Holocaust or were sent to Soviet forced labour camps to seek compensation. A lump sum of 400 000 HUF (around 1 500 €) may be awarded to eligible individuals for each parent, sibling or child who was killed. The Act took effect on 31 March 2006 and, though initially scheduled to remain in force for only four months, was subsequently extended so as to expire in January 2007. 97 500 claims were made, many of which are still being processed. On a more symbolic level, the name of a former high-ranking Nazi official was removed from the title of the National Epidemiology Centre. Overall, however, the situation does not appear to have improved. As regards the expression of anti-semitic views, two weekly newspapers regularly publish anti-semitic material. In March 2008, a particularly virulent anti-semitic article was published by one of the major daily newspapers, and led to considerable protest. Numerous far-right web-sites that include anti-semitic material also exist. The content of these is reported to be subject to some monitoring by the authorities, due to the prohibition on the use of certain Nazi symbols; however, ECRI is not aware of any steps taken by the authorities against any of these sources, or indeed whether any of them have in fact contravened Hungarian law. Anti-semitism has also been openly espoused by certain political parties, which used xenophobic and anti-semitic slogans during the April 2006 elections for the National Assembly. Groups such as the Hungarian Guard also openly express anti-semitic views, and NGOs report that even some mainstream parties do little to distance themselves</p> | | |
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| | | | <p>from such opinions. Overall, the sense is that the expression of anti-semitic views is currently on the rise in Hungary. ECRI observes in this respect that the main problems faced by refugees and other migrants in integrating in Hungarian society appear to stem directly from the deeply entrenched negative stereotypes and attitudes of the general public towards them.</p> <p>Source: ECRI Report on Hungary, 2009, available at http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/hungary/HUN-CbC-IV-2009-003-ENG.pdf</p> | | |
| Iceland | <p>Constitution <u>Article 65:</u> Everyone shall be equal before the law and enjoy human rights irrespective of sex, religion, opinion, national origin, race, colour, property, birth or other status. Men and women shall enjoy equal rights in all respects.</p> <p>Criminal Code <u>Article 180:</u> Anyone who in the course of business or service practice refuses delivery of goods or services to a person in equal measure to others on the basis of the nationality of the latter, colour, race, religion or sexual inclination shall be subject to fines or imprisonment for up to 6 months. ... <u>Article 233, a):</u> Anyone who does by means of ridicule, calumny, insult, threat or otherwise assault a person or group of persons on account of their nationality, colour, [race, religion or sexual inclination] shall be subject to fines or imprisonment for up to 2 years</p> | <p>Constitution <u>Article 73:</u> Everyone has the right to freedom of opinion and belief. Everyone shall be free to express his thoughts, but shall also be liable to answer for them in court. The law may never provide for censorship or other similar limitations to freedom of expression. Freedom of expression may only be restricted by law in the interests of public order or the security of the State, for the protection of health or morals, or for the protection of the rights or reputation of others, if such restrictions are deemed necessary and in agreement with democratic traditions.</p> <p>Criminal Code <u>Article 125:</u> Anyone officially ridiculing or insulting the dogmas or worship of a lawfully existing religious community in this Country shall be subject to fines or imprisonment for up to 3 months. Lawsuits shall not be brought except upon the instructions of the Public Prosecutor.</p> | <p>The climate of opinion regarding Muslims in Iceland is reported to have somewhat deteriorated since ECRI's last report, particularly as a result of the association sometimes made between Muslims and fundamentalism or terrorism. Negative stereotypes and generalisations concerning Muslims are reported to be found in the media, notably private television and radio channels, but also in some cases in political and public debate. A few instances of physical or verbal harassment of Muslims have also been reported to ECRI. More generally, ECRI's attention has been drawn to surveys which seem to point to a certain mistrust of the general public towards Muslims. Stereotyping and stigmatising remarks on members of minority groups are reported to be made sometimes on the broadcast private media. On some occasions, material portraying immigrants in a negative or stereotypical way has also appeared in the press. ECRI notes that codes of self-regulation of journalists exist in Iceland and that on a few</p> | | |

| | | | occasions they have been used to address these instances. | | |
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| Ireland | <p>Prohibition of Incitement To Hatred Act</p> <p>Article 2: (1) It shall be an offence for a person—</p> <p>(a) to publish or distribute written material,</p> <p>(b) to use words, behave or display written material—</p> <p>(i) in any place other than inside a private residence, or</p> <p>(ii) inside a private residence so that the words, behaviour or material are heard or seen by persons outside the residence, or</p> <p>(c) to distribute, show or play a recording of visual images or sounds, if the written material, words, behaviour, visual images or sounds, as the case may be, are threatening, abusive or insulting and are intended or, having regard to all the circumstances, are likely to stir up hatred. ...</p> <p>Article 3: (1) If an item involving threatening, abusive or insulting visual images or sounds is broadcast, each of the persons mentioned in <i>subsection (2)</i> is guilty of an offence if he intends thereby to stir up hatred or, having regard to all the circumstances, hatred is likely to be stirred up thereby. ...</p> <p>Article 4: (1) It shall be an offence for a person—</p> <p>(a) to prepare or be in possession of any written material with a view to its being distributed, displayed, broadcast or otherwise published, in the State or elsewhere, whether by himself or another, or</p> <p>(b) to make or be in possession of a recording of sounds or visual images with a view to its being distributed, shown, played, broadcast or otherwise published, in the State or else-where, whether by himself or another,</p> | <p>Constitution</p> <p>Article 40, 6): 1° (i) The right of the citizens to express freely their convictions and opinions.</p> <p>The education of public opinion being, however, a matter of such grave import to the common good, the State shall endeavour to ensure that organs of public opinion, such as the radio, the press, the cinema, while preserving their rightful liberty of expression, including criticism of Government policy, shall not be used to undermine public order or morality or the authority of the State.</p> <p>The publication or utterance of blasphemous, seditious, or indecent matter is an offence which shall be punishable in accordance with law.</p> <p>Article 44, 2): 1° Freedom of conscience and the free profession and practice of religion are, subject to public order and morality, guaranteed to every citizen.</p> | | <p>The Irish police keep records of the number of reported racist crimes. According to their statistics, 85 offences with a racist motive were recorded in 2005 and 66 were recorded in 2004. 81 such offences were recorded in 2003 and 102 were noted in 2002. These statistics further indicate that the most common types of offences are criminal damage, public order offences and assault. Since 2000, 18 cases have been brought under the Prohibition of Incitement to Hatred Act 1989 and seven resulted in a conviction. One noteworthy conviction was the sentencing of a man to 20 months' imprisonment for painting swastikas on synagogues in Dublin. The Irish authorities have informed ECRI that as there are problems with the enforcement of the Prohibition of Incitement to Hatred Act 1989, a range of criminal sanctions are used for offences such as intimidation, assault and harassment. Few prosecutions have however been brought under this legislation.</p> <p>Source: ECRI Report on Ireland, 2007, available at: http://hudoc.ecri.coe.int/XML/Ecri/ENGLISH/Cycle_03/03_CbC_en/IRL-CbC-III-2007-24-ENG.pdf</p> | |

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| | <p>if the material or recording is threatening, abusive or insulting and is intended or, having regard to all the circumstances, including such distribution, display, broadcasting, showing, playing or other publication thereof as the person has, or it may reasonably be inferred that he has, in view, is likely to stir up hatred. ...</p> <p><u>Article 6:</u> A person guilty of an offence under <i>section 2, 3 or 4</i> shall be liable—</p> <p>(a) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, or</p> <p>(b) on conviction on indictment, to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 2 years or to both.</p> | | | | |
| Italy | <p>Law 645/1952 (implementing the Constitutional norm on the prohibition of reorganization of the fascist party)</p> <p><u>Article 1:</u> For the purposes of the twelfth transitory and final (first paragraph) of the Constitution, it was reorganizing the dissolved fascist party when an association, a movement or at least a group of at least five people pursue their undemocratic goals of the fascist party, enhancing, or threatening using violence as a method of political struggle or advocating the suppression of the freedoms guaranteed by the Constitution or denigrating democracy, its institutions and values of strength, or acting racist propaganda, which addresses its activities to the exaltation of leaders, principles, facts and methods of that party or its outward manifestations of character turns fascist.</p> <p><u>Article 2:</u> Anyone who promotes, organizes or directs associations, movements or groups indicated in Art. 1, shall be punished with</p> | <p>Constitution</p> <p><u>Art. 21:</u> Anyone has the right to freely express their thoughts in speech, writing, or any other form of communication.</p> <p>The press may not be subjected to any authorisation or censorship.</p> <p>Seizure may be permitted only by judicial order stating the reason and only for offences expressly determined by the law on the press or in case of violation of the obligation to identify the persons responsible for such offences.</p> <p>In such cases, when there is absolute urgency and timely intervention of the Judiciary is not possible, a periodical may be confiscated by the criminal police, which shall immediately and in no case later than 24 hours refer the matter to the Judiciary for validation. In default of such validation in the following 24 hours, the measure shall be revoked and considered null and void.</p> <p>The law may introduce general provisions for the disclosure of</p> | <p>In 2009-2010, UNHCR observed a hardening of official attitudes towards migrants including asylum seekers and an increasingly worrying public debate of these issues - in particular within the political discourse - related to migration/asylum, Roma population and integration, sparking xenophobia and hate speech. In this context, UNHCR has been the driving force in a national campaign against racism and xenophobia, undertaken by a network of NGOs and stakeholders, and supported the introduction of the "Charter of Rome" (a code of conduct for guiding the media on how to report on asylum and migration issues, adopted by the Italian Federation of Journalists in 2008) and a consequent Observatory on its effective implementation. Moreover, the adoption in 2008 of a set of governmental measures involving a number of restrictive provisions on migration and asylum law (known as "Security</p> | <p>The case-law related to racial hatred has been significantly growing. However, it can be assumed that several cases do not emerge due to the vulnerable position of the victims (ex. irregular migrants) or to their fear of retaliation or for being addressed with an action for slander. However, the aggravating circumstance of racial hatred can be directly raised by the public prosecutor, and not only by the injured party.</p> <p>Examples:</p> <ul style="list-style-type: none"> - An important case regards F. Tosi, current mayor of the municipality of Verona (member of the city council at the time of the described events), and other five members of his political party. The offences stemmed from a political campaign, entitled "Via gli zingari da Verona!", with the purpose to exclude the Sinti minority from the local community. The first instance judge convicted the six persons accused for the crime set out in Art. 3, par. 1 L. 654/75: spread of | <p>The National Office for the promotion of equal opportunities and the elimination of the discrimination based on race and ethnicity (UNAR) is the equality body which was established, under the governmental Department for equal opportunities, within the domestic implementation of the Directive 2000/43. UNAR is the national institution in charge for granting the effective implementation of racial, ethnical and religious antidiscrimination rules, through monitoring and supervising activities (including a referral mechanism providing assistance for victims of discrimination) and active campaigns.</p> |

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| | <p>imprisonment from five to twelve years and a fine ranging from two to twenty million dollars. Anyone participating in such associations, movements or groups shall be punished with imprisonment from two to five years and a fine ranging from 1,000,000 to 10,000,000 lire. If the association, movement or group takes in all or part of the character of armed or paramilitary organization, which makes use of violence, the penalties mentioned in the preceding paragraphs shall be doubled.</p> <p>The organization is considered armed if the promoters and participants, however, the availability of weapons or explosives are stored anywhere. Without prejudice to art. 29, first paragraph, of the Criminal Code, the conviction of the promoters, organizers or leaders of the matter in any case, the deprivation of rights and of the offices specified in art. 28, second paragraph, points 1 and 2 of the Criminal Code for a period of five years. The condemnation of the participants matter for the same period of five years deprivation of rights under Art. 28, second paragraph, no 1, Penal Code</p> <p>Law 962/1967 (implementation of the 1948 Genocide Convention) Article 8: Whoever publicly incites to commit any crimes predicted in articles 1 to 5, shall be punished, simply because of the instigation, with imprisonment from three to twelve years. The same penalty applies to anyone who publicly advocates any of the crimes provision in the preceding paragraph.</p> <p>Law 654/1975 (implementation of 1966 ICERD) Art. 3: Unless the act constitutes a serious crime, for the implementation of the provisions</p> | <p>financial sources of periodical publications. Publications, performances, and other exhibits offensive to public morality shall be prohibited. Measures of preventive and repressive measure against such violations shall be established by law.</p> | <p>Package") seriously affected the general approach towards migrants, thus fueling hostility. Moreover, with reference to the recent incident occurred in the Mediterranean sea involving the Libyan patrol-boat shooting at an Italian fishing-vessel (12 Sept. 2010), the Minister of Interior, in a TV-news interview, declared that the Libyans might have thought it was a boat carrying irregular migrants ("clandestini"). This ambiguous statement could lead to misinterpretation: it might be read by the public opinion as a potential justification of violent actions against migrants and refugees. In addition, we have also noted a general lack of awareness on the relevance of racial hatred affecting the public debate. The inadequate standard of respect for human dignity and diversity in the political discourse represents a crucial aspect but has been "normalized": hence, it is not fully perceived as a distortion/danger by the public opinion. Finally, it is to be mentioned that because of the lack of integration assistance, migrants and refugees often remain destitute and end up in poor living conditions (ex. squatting in abandoned buildings or train stations) and labour exploitation. This is the situation in many large cities and other areas of Campania, Calabria, Apulia and Sicily. In this context, racism and xenophobia may grow, as happened in Rosarno (Calabria), where migrant farm workers were attacked by residents (8/10.1.2010).</p> | <p>racist ideas and incitement to commit racial discrimination acts (Tribunal of Verona, dec. 2203/2004). The second instance judge confirmed the sentence with regard to the offence of "spreading", but discharged the defendants from "instigation", according to Art. 3.1 as reframed by the 2006 amendment (Court of Appeal of Venice, dec. 2.4.2007). The Supreme Court of Cassation issued a judgement on the case, stating the inconsistency of the Court of Appeal's reasoning (Cass. 13234/2008): the Court of Appeal restructured the argumentation but confirmed the sentence to two months imprisonment exclusively for "propaganda" of racist ideas (C. Appeal Venice 20.10.2008, finally corroborated by Cass. 41819/2009).</p> <p>- A second example concerns last year's incidents which occurred in Venice during a public initiative to celebrate the Lega Nord political party (Sept. 2009). A group of activists assaulted two persons respectively of Algerian and Albanian origin, and damaged the restaurant they were working for. In the case, which is still pending: the public prosecutor requested for the application of the aggravating circumstance of racial hatred and the first hearing before the criminal judge was held on 28.9.2010.</p> <p>- The Supreme Court of Cassation has developed different interpretations on the aggravating circumstance of racial hatred, in similar cases of insults targeting third country nationals (as per Art. 594 criminal code, which sanctions in general offences against personal reputation and dignity). In Cass. Sez. V, dec. 19378/05, calling a person "marocchino" instead of using name/surname was</p> | |
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| | <p>of Art. 4 of the Convention shall be punished with imprisonment from one to four years:</p> <p>a) who in any way disseminates ideas based on racial superiority or hatred;</p> <p>b) a person who incites to discrimination in any way, or incites to commit or committing acts of violence or provocation of violence against people because they belong to a national, ethnical or racial group.</p> <p>is prohibited any organization or association having among its purposes to incite racial hatred or discrimination. Who participates in such organizations or associations, or renders assistance to their business, shall be punished merely because of participation or assistance, with imprisonment from one to five years.</p> <p>Penalties are increased for the leaders and promoters of these organizations or associations.</p> <p>The Criminal Code (freedom of religion)</p> | | | <p>punished; in Cass. dec. 44295/05, using the insulting words “sporche negre” was not deemed to imply any racial hatred for lack of external dimension of the related behaviour; on the contrary, in Cass. Sez. V, dec. 9381/06, the same insult was considered as based on racial discrimination grounds: the Court stated that when targeting a member of an ethnic minority, “sporco negro” always constitutes an aggravated insult.</p> | |
| <p>Kazakhstan</p> | <p>Constitution</p> <p><u>Article 14:</u> 1. Everyone shall be equal before the law and court.</p> <p>2. No one shall be subject to any discrimination for reasons of origin, social, property status, occupation, sex, race, nationality, language, attitude towards religion, convictions, place of residence or any other circumstances.</p> <p><u>Article 19:</u> 1. Everyone shall have the right to determine and indicate or not to indicate his national, party and religious affiliation.</p> <p>2. Everyone shall have the right to use his native language and culture, to freely choose the language of communication, education, instruction and creative activities.</p> | <p>Constitution.</p> <p><u>Article 20:</u> 1. The freedom of speech and creative activities shall be guaranteed. Censorship shall be prohibited.</p> <p>2. Everyone shall have the right to freely receive and disseminate information by any means not prohibited by law. The list of items constituting state secrets of the Republic of Kazakhstan shall be determined by law.</p> <p>3. Propaganda of or agitation for the forcible change of the constitutional system, violation of the integrity of the Republic, undermining of state security, and advocating war, social, racial, national, religious, class and clannish superiority as well as the cult of cruelty and violence shall not be allowed.</p> | <p>On 29-30 June 2010, Kazakhstan hosted the OSCE Conference on Tolerance and Non-Discrimination where the issues of religious tolerance were predominantly discussed while the issues of tolerance towards migrants and refugees did not receive any coverage.</p> <p>The official statistics on hate crimes is provided by the Committee of Legal Statistics and Special Reporting of the Prosecutor General’s Office of Kazakhstan. However, this data is not disaggregated in terms of the characteristics of a victim (their origin, age, etc.), perpetrator, motive, type of crime, etc. According to UNHCR data, during 2010, there have been no serious incidents of manifestations of discrimination</p> | | |

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| | <p><u>Article 20:</u> 3. Propaganda of or agitation for the forcible change of the constitutional system, violation of the integrity of the Republic, undermining of state security, and advocating war, social, racial, national, religious, class and clannish superiority as well as the cult of cruelty and violence shall not be allowed.</p> | | <p>against any of the ethnicities including the refugee population. UNHCR and its implementing partner (Kazakhstan International Bureau for Human Rights and Observation of Lawfulness) regularly hold seminars and training sessions for law-enforcement bodies, the migration police, prosecutors and judiciaries to ensure the understanding of refugee and asylum concepts in line with international refugee law standards. UNHCR with assistance of other local NGOs (such as Red Crescent Society) and local city councils annually organises public events dedicated to the World Refugee Day with broadcasting refugee-related films, photo exhibitions and other events for both the local population and refugees in order to raise the public awareness and promote the tolerance in respect of refugees. Life stories to demonstrate the positive image of refugees are periodically published in local newspapers.</p> | | |
| Kyrgyzstan | <p>Constitution <u>Article 5:</u> 1. The state language of the Kyrgyz Republic shall be the Kyrgyz language. 2. The Kyrgyz Republic guarantees the preservation, equal and free development and functioning of the Russian language and all the other languages, used by the population of the Republic. 3. Infringement upon citizens' rights and freedoms based upon lack of knowledge or command of the state language is not allowed. <u>Article 15:</u> 3. All persons in the Kyrgyz Republic shall be equal before the law and the court. No one may be exposed to any discrimination, infringement of rights and freedoms, on the</p> | <p>Constitution <u>Article 16:</u> 2. Every person in the Kyrgyz Republic shall enjoy the right: to free expression and dissemination of ones thoughts, ideas, opinions, freedom of literary, artistic, scientific and technical creative work, freedom of the press, transmission and dissemination of information</p> | <p>There are no publicly available statistics on hate crimes. The events which took place in April 2010 in Maevka village (http://www.rferl.org/content/For_Meskhethian_Turks_Kyrgyz_Attacks_Are_More_Of_The_Same/2019565.html) and in June 2010 in the Southern provinces of Osh and Jalalabat (ICG report "The Pogroms in Kyrgyzstan" No. 193, 23 August 2010, http://www.crisisgroup.org/en/regions/asia/central-asia/kyrgyzstan/193-the-pogroms-in-kyrgyzstan.aspx) are still awaiting qualification. Such a qualification may be offered by an International Commission of Inquiry (http://www.hrw.org/en/news/2010</p> | | <p>The Government established the State Directorate for Rebuilding and Reconstruction of Osh and Jalalabat to oversee and coordinate reconstruction activities (page 11 of Kyrgyzstan Flash Appeal). Later the Government conducted a roundtable discussion "Inter-ethnic dialogue: agreement and tolerance", funded by the Turkish government (Russian version: http://www.atamekenkg.com/index.php?option=com_content&view=article&id=7646:2010-10-04-10-12-00&catid=99:politic&Itemid=29)</p> |

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| | <p>motives of origin, sex, race, nationality, language, creed, political and religious convictions or by any other public or personal conditions or circumstances.</p> | | <p>0/07/07/kyrgyzstan-international-investigation-planned). The conclusions on whether the above mentioned acts were related to hate crimes/incitement to hatred can be made only upon completion of the investigation. The civil society urges the international community to conduct an independent investigation (http://enews.ferghana.ru/article.php?id=2664)</p> | | |
| Latvia | <p>Constitution <u>Section 91</u>: All human beings in Latvia shall be equal before the law and the courts. Human rights shall be realised without discrimination of any kind.</p> <p>Criminal Code <u>Section 48</u>: (1) The following may be considered to be aggravating circumstances: 14) the criminal offence was committed due to racist motives.</p> <p><u>Section 71</u>: For a person who commits genocide, that is, commits intentional acts for purposes of the destruction in whole or in part of any group of persons identifiable as such by nationality, ethnic origin, race, social class or a defined collective belief or faith, by killing members of the group, inflicting upon them physical injuries hazardous to life or health or causing them to become mentally ill, intentionally causing conditions of life for such people as result in their physical destruction in whole or in part, utilising measures the purpose of which is to prevent the birth of children in such group, or transferring children on a compulsory basis from one group of persons into another, the applicable sentence is life imprisonment or deprivation of liberty for a term of not less than three and not exceeding twenty</p> | <p>Constitution <u>Section 100</u>: Everyone has the right to freedom of expression, which includes the right to freely receive, keep and distribute information and to express their views. Censorship is prohibited.</p> | <p>The number of racially-motivated attacks targeting visible minorities has been increasing while the response to such attacks by the authorities including within the criminal law justice system cannot be deemed adequate. The use of racist discourse, by some politicians and in the media remains a problem. Such racist discourse is geared towards immigrants, particularly newcomers, asylum seekers and refugees, certain ethnic groups such as Roma, and religious minorities such as Muslims and Jews. Some media and politicians also try to stir up interethnic tensions between Latvians and the Russian-speaking population. The naturalisation process remains slow and there is an urgent need to solve the problems linked to the status of non-citizens which makes people concerned feel like "second-class citizens". Roma communities continue to suffer from racism and discrimination, particularly in access to employment and education.</p> <p>(Source: ECRI Third Report on Latvia, adopted on 29 June 2007)</p> | <p>As regards implementation, the Latvian authorities have indicated that since the entry into force of the Criminal Code in 1999, Article 150 and 151 have never been applied. From 1999 until the end of 2006, proceedings under Article 78 were introduced in 26 cases, out of which 13 were initiated in 2005. These cases mostly concern instances of racist speech, but also racist violence. The majority of the cases initiated in 2005 and 2006 are still under investigation while some have been re-qualified as hooliganism or closed for a lack of evidence or on other grounds. In 2007, a total of 12 cases were initiated on the basis of Article 78 of the Criminal Code. There are only a small number of those cases which have been brought to Court and ended up with a conviction of the perpetrators.</p> | <p>Several programmes have been adopted and are being implemented, including the National Programme "Integration of Society in Latvia", the National Programme for the Promotion of Tolerance in Latvia (2005-2009) and the National Action Plan on Roma in Latvia (2007-2009). Efforts have been made to increase the number of non-citizens being granted Latvian citizenship, either by encouraging or facilitating naturalisation. Measures have been taken to encourage the learning of the State language by members of ethnic minorities including through the establishment of the National Agency for Latvian Language Training. An anti-discrimination unit was created within the Office of the Ombudsman.</p> <p>(Source: ECRI Third Report on Latvia, adopted on 29 June 2007)</p> |

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| | <p>years.</p> <p>Section 78: (1) For a person who commits acts knowingly directed towards instigating national or racial hatred or enmity, or knowingly commits the restricting, directly or indirectly, of economic, political, or social rights of individuals or the creating, directly or indirectly, of privileges for individuals based on their racial or national origin, the applicable sentence is deprivation of liberty for a term not exceeding three years or a fine not exceeding sixty times the minimum monthly wage.</p> <p>(2) For a person who commits the same acts, if they are associated with violence, fraud or threats, or where they are committed by a group of persons, a State official, or a responsible employee of an undertaking (company) or organisation, the applicable sentence is deprivation of liberty for a term not exceeding ten years.</p> <p>Section 150: For a person who commits direct or indirect restriction of the rights of persons or creation of whatsoever preferences for persons, on the basis of the attitudes of such persons towards religion, excepting activities in the institutions of a religious denomination, or commits violation of religious sensibilities of persons or incitement of hatred in connection with the attitudes of such persons towards religion or atheism, the applicable sentence is deprivation of liberty for a term not exceeding two years, or community service, or a fine not exceeding forty times the minimum monthly wage.</p> <p>Section 151: For a person who commits intentional interference</p> | | | | |
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| | with religious rituals, if such are not in violation of law and are not associated with violation of personal rights, the applicable sentence is community service, or a fine not exceeding ten times the minimum monthly wage. | | | | |
| Liechtenstein | <p>Liechtenstein Penal Code § 283 Racial discrimination: I. A person shall be punished with imprisonment of up to two year, if the person:</p> <ol style="list-style-type: none"> 1) publicly incites hatred or discrimination against a person or a group of persons on the basis of race, ethnicity, or religion; 2) publicly disseminates ideologies aimed at the systematic disparagement or defamation of members of a race, ethnicity or religion; 3) organizes, promotes, or participates in propaganda actions with the same objective; 4) publicly disparages or discriminates against a person or a group of persons on the basis of race, ethnicity, or religion in a manner violating human dignity, by means of spoken words, writing, images, electronically transmitted symbols, gestures, physical violence, or any other means; 5) publicly denies, grossly plays down the harm of, or attempts to justify genocide or other crimes against humanity, by means of spoken words, writing images, electronically transmitted symbols, gestures, physical violence, or any other means; 6) denies a service he or she provides that is meant for the general public to a person or a group of person on the basis of race, ethnicity, or religion; 7) participates as a member in an association whose activity consists of promoting or inciting racial discrimination. <p>II) A person shall be punished in</p> | <p>Constitution of the Principality of Liechtenstein Art.40: Every person shall be entitled to freely express his opinion and to communicate his ideas by word of mouth or in writing, print or pictures within the limits of the law and morality; no censorship may be exercised except in respect of public performances and exhibitions.</p> | | <p>1 JG 2005.32-49 The court found the person concerned guilty for violation of § 283 Penal Code. He put up a swastika banner as well as another banner showing a Nazi symbol, which could both be seen from outside of his property. Also, he publicly disseminated ideologies aimed at the systematic disparagement or defamation of members of a race or religion. Furthermore, he imported, stored and distributed CD's with Nazi content.</p> | |

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| | <p>the same manner, if the person</p> <p>1) manufacturers, imports, stores or distributes, for the purpose of further dissemination, documents, sound or image recordings, electronically transmitted symbols, depictions, or other objects of this sort whose content is racial discrimination within the meaning of paragraph 1;</p> <p>2) publicly recommends, exhibits, offers or presents them.</p> <p>III) Paragraph 1 and 2 do not apply if the propaganda material or the act serves the purpose of art or science, research or education, appropriate reporting on current events or history, or similar purposes.</p> <p>§ 33 <i>Special aggravating circumstances</i></p> <p>It shall in particular be considered an aggravating circumstance if the perpetrator</p> <p>5) has acted out of racist, xenophobic, or other particularly reprehensible motives.</p> | | | | |
| <p>Lithuania</p> | <p>Constitution</p> <p><u>Article 25:</u> ... Freedom to express convictions and to impart information shall be incompatible with criminal actions—incitement of national, racial, religious, or social hatred, violence and discrimination, with slander and disinformation. ...</p> <p><u>Article 29:</u> All persons shall be equal before the law, the court, and other State institutions and officials. The rights of the human being may not be restricted, nor may he be granted any privileges on the ground of gender, race, nationality, language, origin, social status, belief, convictions, or views.</p> <p>Criminal Code</p> <p><u>Article 169:</u> A person who has committed acts aimed at a certain group or members thereof on account of their ethnic</p> | <p>Constitution</p> <p><u>Article 25:</u> The human being shall have the right to have his own convictions and freely express them. The human being must not be hindered from seeking, receiving and imparting information and ideas. Freedom to express convictions, to receive and impart information may not be limited otherwise than by law, if this is necessary to protect the health, honour and dignity, private life, and morals of a human being, or to defend the constitutional order. Freedom to express convictions and to impart information shall be incompatible with criminal actions—incitement of national, racial, religious, or social hatred, violence and discrimination, with slander and disinformation. The citizen shall have the right to receive, according to the procedure established by law,</p> | | <p>Investigations into the possible breach of article 170 of the Criminal Code have been opened, notably as concerns the display of anti-semitic material in the context of mass events led by the local leaders of an extremist political party. The Lithuanian media operates under a code of self-regulation, but material has been published by them inciting racial hatred, targeting notably the Jewish, Roma and Chechen communities, but also material stigmatising these groups in a more general way, including reports revealing the ethnic origin of persons found responsible of, or being investigated for committing crimes. In February and March 2004 a series of articles of an anti-semitic character were published in the daily newspaper <i>Respublika</i> and that in March 2004 these articles were</p> | |

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| | <p>background, race, sex, <i>sexual orientation</i>, origin or religion with a view to interfering with their right to participate as equals of other persons in political, economic, social, cultural or employment activity or to restrict the human rights or freedoms of such a group or its members, shall be punished with</p> <p>(a) community service work (b) a fine (c) detention or (d) imprisonment for up to 3 years.</p> <p>Article 170: A person who, by making public statements orally, in writing or by using the public media, ridicules, expresses contempt of, urges hatred towards or encourages discrimination against a group of residents or against a specific person, on account of his or her sex, <i>sexual orientation</i>, race, nationality, language, ethnicity, social status, faith, religion or beliefs, shall be punished with (a) a fine, (b) detention or (c) imprisonment for up to 3 years</p> <p>Code of Administrative Violations Article 214 (12): Article 214 (13):</p> | <p>any information concerning him that is held by State institutions.</p> | | <p>published in a separate edition which was received by all readers of that newspaper and of another newspaper, <i>Vakaro žinios</i>. ECRI notes that, at the request of civil society organisations, the General Prosecutor's Office opened an investigation into possible breach of Article 170 of the Criminal Code. ECRI also notes that the Inspector of Journalists' Ethics and the Commission on the Ethics of Journalists and Editors concluded that the provisions against incitement to racial or religious hatred contained in the Law on Provision of Information to the Public had been breached and that an <i>ad hoc</i> commission set up to consider these articles concluded that the articles in question amounted to incitement to racial hatred. However, ECRI notes that in March 2005 the General Prosecutor's Office decided to discontinue the case, reportedly on grounds, <i>inter alia</i>, that these articles did not constitute incitement to racial hatred, but were rather of a humorous nature. Following much public criticism of the decision of the General Prosecutor's Office to discontinue the case, the latter decided more recently to re-open the investigations.</p> <p>Other investigations into the possible breach of Article 170 have been opened, notably as concerns the display of anti-semitic material in the context of mass events led by the local leaders of an extremist political party. Investigations have also been opened into cases of desecration of Jewish cemeteries as well as destruction of private property and violation of public order with anti-semitic connotations. Some Lithuanian media have published material inciting to racial hatred, targeting</p> | |
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| | | | | <p>notably the Jewish, the Roma and Chechen communities, but also material stigmatising these groups in a more general way, including reports revealing the ethnic origin of persons found responsible of, or being investigated for committing crimes. A new code of self-regulation has been adopted and that the provisions against this type of material have been further clarified in the new code. There have been a number of cases where the Inspector of Journalists' Ethics and the Commission on the Ethics of Journalists and Editors have taken action against the appearance of material of concern to ECRI. However, civil society organisations have consistently stated that media reporting on minority groups and their portrayal of such groups, which amount in some cases to incitement to hatred, constitutes at present a matter of priority concern to them. Reports indicate that racially inflammatory material is widely disseminated through the Internet. Apart from material contained in racist or xenophobic websites, this material also includes mail sent by members of the public onto Internet fora. Once again, the Jewish, Roma and Chechen communities are the most frequent targets of this material. In spite of cases having been reported to the General Prosecutor's Office, no action has been taken in response to these cases. The Inspector of Journalists' Ethics and the Commission on the Ethics of Journalists and Editors have reportedly reminded those in charge of the Internet fora of their responsibility to remove all material that incites to racial hatred. However, the material in question is reported to remain</p> | |
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| | | | | <p>available online for very long periods of time.</p> <p>Source: ECRI Report on Lithuania, 2006, available at: http://hudoc.ecri.coe.int/XML/Ecri/ENGLISH/Cycle_03/03_CbC_eng/LTU-CbC-III-2006-2-ENG.pdf</p> | |
| <p>Malta</p> | <p>Criminal Code <u>Article 83B</u>: General Provision applicable to offences which are racially aggravated or motivated by xenophobia": The punishment established for any offence shall be increased by one to two degrees when the offence is racially or religiously aggravated within the meaning of sub-articles (3) to (6), both inclusive, of article 222A or is motivated, wholly or partly, by xenophobia.</p> <p><u>Article 222A</u>: Increase in punishment in certain cases": (2) The punishments established in the foregoing provisions of this sub-title shall also be increased by one to two degrees when the offence is racially or religiously aggravated or motivated, wholly or partly, by xenophobia within the meaning of the following subarticles. (3) An offence is racially or religiously aggravated or motivated by xenophobia if: (a) at the time of committing the offence, or immediately before or after the commission of the offence, the offender demonstrates towards the victim of the offence hostility, aversion or contempt based on the victim's membership (or presumed membership) of a racial or religious group; or (b) the offence is motivated, wholly or partly, by hostility, aversion or contempt towards members of a racial group based on their membership of that group (4) In subarticle (3) (a): "membership", in relation to a</p> | <p>Constitution <u>Article 41</u>: Protection of Freedom of Expression: (1) Except with his own consent or by way of parental discipline, no person shall be hindered in the enjoyment of his freedom of expression, including freedom to hold opinion without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence. (2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that the law in question makes provision -- (a) that is reasonably required -- (i) in the interests of defence, public safety, public order, public morality or decency, or public health; or (ii) for the purpose of protecting the reputations rights and freedoms of other persons, or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, protecting the privileges of Parliament, or regulating telephony, telegraphy, posts, wireless broadcasting, television or other means of</p> | <p>UNHCR has observed that the web-edition of the Times of Malta and other cyber blogs frequently include private individuals' derogatory comments about refugees and migrants, at times in quite aggressive language. Investigations were carried out by the Police relating to YouTube videos uploaded by a Maltese person expressing racial hatred towards African migrants, as well as to an anti-migrant Facebook page posting racist and xenophobic comments. There are also several places where graffiti are seen, inciting racial or religious hatred. In addition, UNHCR receives reports from refugees who have experienced racial discrimination or abuse.</p> | <p>There is an ongoing court case relating to freedom of speech involving a notorious political figure (Norman Lowell, the leader of the right-wing party Imperium Europa) who regularly uses very explicit racial and religious discriminatory discourse and was convicted of three charges of racial hatred.</p> | |

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| | <p>racial or religious group, includes association with members of that group; "presumed" means presumed by the offender.</p> <p>(5) It is immaterial for the purposes of subarticle (3) (a) or (b) whether or not the offender's hostility is also based, to any extent, on any other factor not mentioned in those paragraphs.</p> <p>(6) In this article: "racial group" means a group of persons defined by reference to race, descent, colour, nationality (including citizenship) or ethnic or national origins; "religious group" means a group of persons defined by reference to religious belief or lack of religious belief.</p> | <p>communication, public exhibitions or public entertainments; or (b) that imposes restrictions upon public officers, and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.</p> <p>(3) Anyone who is resident in Malta may edit or print a newspaper or journal published daily or periodically: Provided that provision may be made by law --</p> <p>(a) prohibiting or restricting the editing or printing of any such newspaper or journal by persons under twenty-one years of age; and</p> <p>(b) requiring any person who is the editor or printer of any such newspaper or journal to inform the prescribed authority to that effect and of his age and to keep the prescribed authority informed of his place of residence.</p> <p>(4) Where the police seize any edition of a newspaper as being the means whereby a criminal offence has been committed they shall within twenty-four hours of the seizure bring the seizure to the notice of the competent court and if the court is not satisfied that there is a prima facie case of such offence, that edition shall be returned to the person from whom it was seized.</p> <p>(5) No person shall be deprived of his citizenship under any provisions made under section 301(1) (b) of this Constitution or of his juridical capacity by reason only of his political opinions.</p> | | | |
| <p>Norway</p> | <p>Criminal Code <u>Section 135, a):</u> 135 a. Any person shall be liable to fines or imprisonment for a term not exceeding two years who by any utterance or other communication made publicly or otherwise</p> | <p>Constitution <u>Article 100</u> There shall be freedom of expression. No person may be held liable in law for having imparted or received information, ideas or</p> | <p>The use of racist and xenophobic discourse by Norwegian political parties continues, often in connection with security concerns. For instance, during the run-up to the September 2005 general</p> | <p>The Supreme Court judgment of 21 December 2007 relating to virulent anti-semitic statements made by the spokesman of an extreme right-wing group during an interview with one of Norway's largest newspapers in July 2003.</p> | |

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| | <p>disseminated among the public threatens, insults, or subjects to hatred, persecution or contempt any person or group of persons because of their creed, race, colour or national or ethnic origin. The same applies to any such offensive conduct towards a person or a group because of their homosexual bent, life-style, or inclination.</p> <p>The same penalty shall apply to any person who incites or is otherwise accessory to any act mentioned in the first paragraph.</p> <p><u>Article 349 a):</u> Any person who in an occupational or similar activity refuses any person goods or services on the same conditions as apply to others, because of his religion, race, colour of his skin, national or ethnic origin, shall be liable to fines or imprisonment for a term not exceeding six months. The same penalty shall apply to any person who in any such activity refuses a person goods or services as mentioned because of his homosexual bent, life-style, or inclination. ...</p> | <p>messages unless this can be justified in relation to the grounds for freedom of expression, which are the seeking of truth, the promotion of democracy and the individual's freedom to form opinions. Such legal liability shall be prescribed by law. Everyone shall be free to speak his mind frankly on the administration of the State and on any other subject whatsoever. Clearly defined limitations to this right may only be imposed when particularly weighty considerations so justify in relation to the grounds for freedom of expression. Prior censorship and other preventive measures may not be applied unless so required in order to protect children and young persons from the harmful influence of moving pictures. Censorship of letters may only be imposed in institutions. Everyone has a right of access to documents of the State and municipal administration and a right to follow the proceedings of the courts and democratically elected bodies. Limitations to this right may be prescribed by law to protect the privacy of the individual or for other weighty reasons.</p> <p>It is the responsibility of the authorities of the State to create conditions that facilitate open and enlightened public discourse.</p> | <p>elections, the Progress Party (Fremskrittspartiet, FrP) disseminated a brochure establishing, through text and images, very clear links between serious security issues and persons of foreign origin. More generally, many civil society actors find that the expression of anti-immigrant views in political and public debate has become more common in Norway in recent years. In particular, there has reportedly been a rise in the association of Muslims on the one hand, and terrorism and violence on the other, as well as generalisations and stereotypes concerning persons of Muslim background. However, welcome initiatives have also been taken to curb the expression of racist and xenophobic propaganda in politics. Thus, at the initiative of the Equality and Anti-discrimination Ombud (LDO), in the course of the 2007 municipal elections all main political parties represented in Parliament signed a pledge to refrain from racist or xenophobic discourse, and discourse that might stigmatise other vulnerable groups.</p> <p>In spite of a considerable increase in the overall number of complaints received by the Press Complaints Commission since ECRI's third report, complaints filed with this commission in relation to issues of immigration, racism and/or persons with an immigrant background have not been significantly on the rise. At the same time, civil society actors have reported to ECRI that news media have continued to refer to suspects' national origins and ethnic backgrounds when these do not have any bearing on the case. News coverage of violence between close family members is also reported to often include speculations with regard to cultural or religious motivations</p> | <p>The accused had, among other things, stated that Jews were "the main enemy", that they had "killed our people" and were "vicious murderers". He had also stated that Jews were "not humans" but "parasites" that were to be "cleaned out". He furthermore stated that the organisation for which he was the spokesman conducted weapons and combat training, and that he did not care whether anything happened to people he did not want in the country. The accused was convicted by unanimous decision of the district court. However, he was unanimously found not guilty by the court of appeal, which held that his statements were protected by freedom of expression. Following an appeal by the Director of Public Prosecutions, the Supreme Court unanimously set aside the court of appeal's acquittal on the basis of an error in law and concluded that the statements were punishable under Section 135a, as they contained a call or support for clear acts of physical injury to Jews, and moreover involved a gross disparagement of Jews' human worth. The judgment of the Supreme Court is based on Section 135a as it stood before the amendments that entered into force on 1 January 2006.</p> <p>However, the Supreme Court refers to the parliamentary debates that led to the current formulation of Article 100 of the Constitution and the Norwegian authorities consider that the Supreme Court judgment considerably contributes to the clarification of the law as regards the scope of Section 135a as it currently stands. In particular, they stress that the emphasis put by the Supreme Court on the existence of a call or support for</p> | |
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| | | | <p>when those involved have ethnic minority backgrounds, while similar episodes involving ethnic Norwegians are portrayed as the result of individual medical or psychological conditions. Furthermore, the sensationalism and sweeping generalisations with which the media has reportedly often addressed phenomena such as female genital mutilation and family violence regardless of the actual opinions or attitudes towards these phenomena among members of the communities concerned, has continued to contribute to the stigmatisation of entire groups. The most visible manifestations of anti-semitism in Norway are reported to have taken the form of speech by extreme right-wing groups through different means of communication. However, manifestations of anti-semitism intensified during the Israel-Hezbollah conflict in Lebanon in the summer of 2006, including an outbreak of desecrations and insults, threats and physical attacks against members of Jewish communities. In September 2006, several rounds from an automatic military rifle were also fired at the Oslo synagogue. One person was convicted for this offence by Oslo District Court in June 2008. ECRI notes that in general, representatives of Jewish communities have valued the response made by the Norwegian authorities to the manifestations of anti-semitism that have occurred in Norway since ECRI's last report.</p> <p>Cases of harassment of members of the Sami communities and hate speech targeting Sami on the internet have continued to be reported. Two surveys carried out among Sami on perception of</p> | <p>clear acts of physical injury and of gross disparagement of a group of people's human worth will be helpful in developing a consistent prosecution practice in racist expression cases in the future. In 2007 the LDO brought charges under Section 135a of the Criminal Code against the publisher of a website for posting offensive racist material in the form of jokes. ECRI understands that the prosecuting authorities dismissed the case as they considered that it would fall outside the scope of Section 135a as interpreted in the light of the recent Supreme Court judgment. More generally, it has been pointed out that racist expression is still widely present on the Internet. ECRI notes that the LDO has contacted website publishers to warn them that they might be in breach of criminal legislation and that there are police units specialised in monitoring illegal content on the Internet. However, ECRI understands that so far there have been no convictions for breaches of Section 135a committed through the Internet.</p> <p>Source: ECRI Report on Norway, 2009, available at: http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/norway/nor-cbc-iv-2009-004-eng.pdf</p> | |
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| | | | <p>discrimination, 36% of the interviewees indicated having experienced discrimination in 2003-2004 and 25% in 2005-2006.</p> <p>Source: ECRI Report on Norway, 2009, available at: http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/norway/nor-cbc-iv-2009-004-eng.pdf</p> | | |
| Poland | <p>Consitution of Poland <u>Article 13:</u> Political parties and other organizations whose programs are based upon totalitarian methods and the modes of activity of Nazism, fascism and communism, as well as those whose programs or activities sanction racial or national hatred, the application of violence for the purpose of obtaining power or to influence the State policy, or provide for the secrecy of their own structure or membership, shall be prohibited. <u>Article 25:</u> 1. Churches and other religious organizations shall have equal rights. 2. Public authorities in the Republic of Poland shall be impartial in matters of personal conviction, whether religious or philosophical, or in relation to outlooks on life, and shall ensure their freedom of expression within public life. <u>Article 32:</u> 2. No one shall be discriminated against in political, social or economic life for any reason whatsoever. <u>Article 53:</u> 1. Freedom of conscience and religion shall be ensured to everyone. <u>Article 233:</u> 2. Limitation of the freedoms and rights of persons and citizens only by reason of race, gender, language, faith or lack of it, social</p> | <p>Consitution of Poland <u>Article 25:</u> 1. Public authorities in the Republic of Poland shall be impartial in matters of personal conviction, whether religious or philosophical, or in relation to outlooks on life, and shall ensure their freedom of expression within public life. <u>Article 49:</u> The freedom and privacy of communication shall be ensured. Any limitations thereon may be imposed only in cases and in a manner specified by statute. <u>Article 54:</u> 1. The freedom to express opinions, to acquire and to disseminate information shall be ensured to everyone. <u>Article 213</u> 2. The National Council of Radio Broadcasting and Television shall safeguard the freedom of speech, the right to information as well as safeguard the public interest regarding radio broadcasting and television. <u>Article 213:</u> The National Council of Radio Broadcasting and Television shall safeguard the freedom of speech, the right to information as well as safeguard the public interest regarding radio broadcasting and television.</p> | <p>Reports on racial discrimination.</p> <p>On 14 September 2009, the Committee on the Elimination of Racial Discrimination has considered the consolidated seventeenth to nineteenth reports of Poland. The Committee welcomed several developments such as adoption of the Act on National Minorities, changes to the Law on Social Assistance and creating the post of Plenipotentiary for Equal treatment. At the same time the Committee expressed its concerns with regard to the integration opportunities for Roma persons and the incidents against the persons of Arab, Asian and African origin. Full report is available at http://www.unhcr.org/refworld/doc/id/4acef1fb0.html</p> <p>On 15 June 2010, the European Commission against Racism and Intolerance has published its fourth monitoring report on Poland. ECRI welcomed some positive developments especially with regard to the treatment of national minorities, however there were also some issues of concern mentioned, such as discriminatory attitudes in the fields of housing or employment as well as anti-semitism.</p> <p>The full report may be accessed</p> | <p>In Feb 2007, the Supreme Court decided that holding a placard reading "we shall liberate Poland from (among others) Jews" did not amount to an offence under Article 256. The court referred to article 51.1 of the constitution which protects the right to express opinions, the ordinary meaning of the word "liberate" and the use of the indicative, as opposed to the imperative, which showed no intention to incite national hatred. Under Article 29 of the Law on Associations, the court can disband an association engaging in activities that are "flagrantly" or "repeatedly" against the law. So far action has only been taken against the National-Radical Camp in Opole. There has also been an investigation into Radio Maria (and related media) due to its anti-semitic broadcasts, but no problem was found. Public tv has recently gone through a major leadership crisis resulting from the appointment as its head of a person who had in the past expressed anti-semitic views. This crisis has been resolved with this person's replacement. A bookstore selling anti-semitic material has been closed down, but such material continues to be sold openly in kiosks around Warsaw and elsewhere. With regard to the racist motivation of offences, the National Prosecutor's Office has</p> | <ul style="list-style-type: none"> - Establishment of the Team on Racism and Xenophobia in the Ministry of Interior and Administration - Establishment of Plenipotentiaries for the protection of human rights in Police - Establishment of the Government Plenipotentiary for Equal Treatment at the Chancellery of the Prime Minister, in the rank of a Secretary of State - Implementation of the National Program for Counteracting Racial Discrimination, Xenophobia and Related Intolerance 2004-2009 - The role and tasks of The National Prosecutor's Office - Training program for Police - Program for the Roma Community in Poland (See Addendum) |

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| | <p>origin, ancestry or property shall be prohibited.</p> <p>Polish Penal Code of 6 June 1997</p> <p><u>Art. 118:</u> § 1. Any person who, with the intent to destroy, in whole or in part, a national, ethnic, racial, political or religious group or a group of persons with a definite philosophical conviction, kills a member of the group or causes serious harm to the health of a member of the group, shall be punished with imprisonment for a time not shorter than twelve years, with imprisonment for twenty years, or with imprisonment for life.</p> <p>§ 2. Any person who, with the intent mentioned in § 1, inflicts on persons belonging to such a group conditions of life calculated to bring about its biological destruction, or imposes measures intended to prevent births within the group, or forcibly transfers children of the group to another group, shall be punished with imprisonment for a time not shorter than five years, or with imprisonment for twenty-five years.</p> <p>§ 3. Any person who attempts to commit the offence mentioned in § 1 or 2, shall be punished with imprisonment for a time not shorter than three years.</p> <p><u>Art. 119.</u> § 1 Whoever uses violence or makes unlawful threat towards a group of person or a particular individual because or their national, ethnic, political or religious affiliation, or because of their lack of religious beliefs, shall be subject to the penalty of the deprivation of liberty for a term of between 3 months and 5 years.</p> <p>§ 2. The same punishment shall be imposed on anyone, who incites commission of the offence specified under § 1.</p> <p><u>Art. 195:</u> § 1. Whoever maliciously interferes with a the</p> | | <p>at http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Poland/POL-CbC-IV-2010-018-ENG.pdf</p> <p>Poland does not have an independent body specialised in combating racism. There is an Equal Treatment de facto minister, who is also responsible for the national programme for counteracting racial discrimination, xenophobia and related intolerance, in place since 2004. Openly anti-semitic political parties exist in Poland, even though their influence is marginal. The Catholic church could play a larger role than it has up to now in speaking out against anti-semitism.</p> <p>Source: ECRI Report on Poland, 2010, available at: http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/poland/POL-CbC-IV-2010-018-ENG.pdf</p> | <p>taken three initiatives: closer supervision of investigation proceedings, appointment of specially tasked prosecutors at appellate level and collection of specialised statistics. Generally speaking, in recent years, the number of racially motivated offences – investigated and prosecuted – has increased to a certain degree. But racially motivated offences remain underreported.</p> <p>Source: ECRI Report on Poland, 2010, available at: http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/poland/POL-CbC-IV-2010-018-ENG.pdf</p> <p>On 4 May 2010, the police charged singer Doda, whose real name is Dorota Rabczewska, with violating the Criminal Code for saying in 2009 that the Bible was "unbelievable" and written by people "drunk on wine and smoking some kind of herbs".</p> <p>On 8 March 2010, the police charged vocalist and guitarist Adam Darski, of the Polish blackened death metal band Behemoth, with violating the Criminal Code. The charge arose out of a performance by Behemoth in September 2007 in Gdynia during which Darski allegedly called the Catholic Church "the most murderous cult on the planet", and he tore up a copy of the Bible.</p> <p>On 14 April 2006, the Jan Karski Association complained that a broadcast on a Catholic radio station defamed the Jewish people and violated Article 257 of the Criminal Code. Prosecutors refused to pursue the matter.</p> <p>In February 2006, readers complained about an issue of the magazine <i>Machina</i>, which featured the likeness of the singer Madonna superimposed</p> | |
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| | <p>public performance of a religious ceremony of a church or another religious association with regulated legal status shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.</p> <p>§ 2. The same punishment shall be imposed on anyone who maliciously interferes with a funeral, mourning ceremonies or rites</p> <p><u>Art. 196:</u> Whoever offends the religious feelings of other persons by outraging in public an object of religious worship or a place dedicated to the public celebration of religious rites, shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.</p> <p><u>Art. 256: §1</u> Whoever publicly promotes a fascist or other totalitarian system of state or incites hatred based on national, ethnic, race or religious differences or for reason of lack of any religious denomination shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.</p> <p>§ 2. Whoever, in order to distribute produces, records or brings, buys, stores, possesses, presents, transports or sends print, record or other item containing the substance referred to in § 1 or being a carrier of the fascist, communist or other totalitarian symbolism shall be subject to a punishment as referred to in § 1.</p> <p><u>Art. 257:</u> Whoever publicly insults a group within the population or a particular person because of his national, ethnic, race or religious affiliation or because of his lack of any religious denomination or for these reasons breaches the personal inviolability of another individual shall be subject to the</p> | | | <p>upon a depiction of the Virgin Mary with Jesus. Prosecutors refused to pursue the matter.</p> <p>On 28 October 2005, a Provincial Court convicted Leszek Bubel of violating Article 257 of the Criminal Code by publishing anti-Semitic literature. The Court sentenced Bubel to a fine.</p> <p>In December 2001, Members of the League of Polish Families complained that the artwork called "Passion" by Nieznalska was a violation of Article 196 of the Criminal Code. In July 2003, the Provincial Court in Gdansk found Nieznalska guilty. The court sentenced her to a half-year "restriction of freedom," ordered her to do community work, and required her to pay all trial expenses. On 28 April 2004, the District Court in Gdansk quashed the previous judgment.</p> <p>In October 2001, the prosecutor in Krakow received complaints that the movie <i>Dogma</i> violated Article 196 of the Criminal Code. The prosecutor refused to pursue the matter.</p> <p>In August 1994, the Regional Prosecutor's Office in Poznan received complaints about the magazine <i>Wprost</i>, which featured a cover that had the Virgin Mary and Jesus wearing gas masks. The prosecutor refused to pursue the matter.</p> | |
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| | <p>penalty of deprivation of liberty for up to 3 years.</p> <p>Labour Code of 26 June 1974 (with later changes)</p> <p><u>Art. 11³</u>: Any discrimination in employment, direct or indirect, especially on the grounds of sex, age, disability, race, religion, nationality, political opinion, trade union membership, ethnic background, beliefs, sexual orientation or employment for definite or indefinite period, full or part time is forbidden.</p> <p><u>Art. 18 (3a)</u>. § 1. Employees shall be treated equally in engaging and dissolving of the labor relationship, terms of employment, promoting opportunities as well as the access to the vocational training to enhance the work qualifications, especially without taking into regard sex, age, disability, race, religion, nationality, political opinion, trade union membership, ethnic background, beliefs, sexual orientation or employment for definite or indefinite period, full or part time.</p> <p>§ 2. Equal treatment in employment shall be understood as non-discrimination in any way, direct or indirect, on the grounds listed in § 1.</p> <p>§ 3. Direct discrimination exists when the employee due to one or more grounds listed in § 1 was, is or could be treated in the similar situation less favorable than other employees</p> <p>§ 4. Indirect discrimination is present if because of the seemingly neutral decision, criteria or undertaken action discrepancies exist with regard to the conditions of employment disadvantaging all or majority of the employees identified due to one or several grounds listed in § 1, if those discrepancies cannot be justified by other, objective</p> | | | | |
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| | <p>reasons. § 5. Indication of discrimination in notion of § 2 is also: 1) activity encouraging other person to violate the equal treatment rule in employment, 2) behavior, which aim or result is the violation of a dignity or humiliation or degradation of an employee (harassment). <u>Art. 18 (3b):</u> § 4. Differentiation of the employees on the grounds of religion or belief does not constitute violation of the equal treatment rule, if due to the type and character of the activity run within the church structure or other confessional association, as well as organizations which goal is in direct connection with the religion or belief, the religion or belief of the employee consists a valid, justified and reasonable occupational requirement.</p> | | | | |
| <p>Portugal</p> | <p>Constitution <u>Article 13:</u> (1) All citizens have the same social dignity and are equal before the law. (2) No one is privileged, favored, injured, deprived of any right, or exempt from any duty because of his ancestry, sex, race, language, territory of origin, religion, political or ideological convictions, education, economic situation, or social condition.</p> <p>Criminal Code <u>Article 240:</u> 1) Who: a) Creates or sets up an organization, activity or organized propaganda that incites or encourages racial or religious discrimination, hatred or violence, or b) Participates in the organization or the activities referred to in the preceding paragraph or provides them with assistance, including financing; shall be punished with imprisonment of 1-8 years. 2) -Who in public meeting, writing</p> | <p>Constitution <u>Article 26:</u> (1) Everyone's right to his or her personal identity, civil capacity, citizenship, good name and reputation, image, the right to speak out, and the right to the protection of the intimacy of his or her private and family life is recognized.</p> <p><u>Article 37:</u> (1) Everyone has the right to express and make known his or her thoughts freely by words, images, or any other means, and also the right to inform, obtain information, and be informed without hindrance or discrimination. (2) The exercise of these rights may not be prevented or restricted by any type or form of censorship. (3) Offences committed in the exercise of these rights are punishable under the general principles of criminal law, the courts of law having jurisdiction to try them. (4) The right of reply and</p> | | <p>Article 240-2 b) was applied for the first time in 2001 against a member of Paredes Municipal Council, who was sentenced to 9 months' imprisonment for making racist remarks about Gypsies and Black people. Article 240 was applied a second time on 6 July 2005 by the Criminal Court of Lisbon. The individuals in question were being prosecuted for racist activities, including the distribution of racist material in one of the city's squares. They received prison sentences ranging from 6 to 18 months. Overall, very few cases involving racist offence are recorded.</p> <p>Source: ECRI Report on Portugal, 2007, available at: http://hudoc.ecri.coe.int/XML/Ecri/ENGLISH/Cycle_03/03_CbC_eng/PRT-CbC-III-2007-4-ENG.pdf</p> | <p>The television programme "We" (NÓS in Portuguese) which has a 20-minute slot each day and a one hour slot each week has been broadcast since 2004 and is aimed at depicting a pluralist, multicultural and harmonious society. In addition, the annual "Immigration and Ethnic Minorities – Journalism for Tolerance" prize was initiated in 2002 for journalists from all branches of the media in order to promote tolerance and integration.</p> <p>Source: ECRI Report on Portugal, 2007, available at: http://hudoc.ecri.coe.int/XML/Ecri/ENGLISH/Cycle_03/03_CbC_eng/PRT-CbC-III-2007-4-ENG.pdf</p> |

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| | <p>for public purposes or by any other means of public Media: a) brings about acts of violence against a person or group of persons because of their race, color, national origin, ethnic origin or religion, or b) defamates or injures a person or group of persons because of their race, color, ethnicity, nationality or religion, including the denial of war crimes or crimes against peace and humanity; with intent to incite or encourage racial or religious discrimination, is punishable with imprisonment from 6 months up to 5 years.</p> | <p>rectification and the right to compensation for losses suffered are equally and effectively secured to all natural and artificial persons.</p> <p><u>Article 38:</u> (1) Freedom of the press is safeguarded. (2) Freedom of the press includes: a) The freedom of expression and creativeness for journalists and literary collaborators as well as a role for the former in giving editorial direction to the concerned mass media, save where the latter belong to the State or have a doctrinal or denominational character; b) The journalists' right of access to the sources of information, protection of their professional independence and secrecy, and election of editorial councils, in accordance with the law; c) The right to start newspapers and any other publication regardless of any prior administrative authorization, deposit, or qualification. (3) The law ensures, in a general way, disclosure of the ownership and forms of financing of the mass media. (4) The State ensures the freedom and independence of the mass media against the political and economic powers; it imposes the principle of specialty with respect to companies that own general information media; it treats and support the latter in a non-discriminatory fashion and prevents their concentration, notably through multiple or interlocking financial interests. (5) The State ensures the existence and the operation of a public service of radio and television. (6) The structure and the operation of the media that remain within the public sector ensure their independence</p> | | | |
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| | | <p>against the Government, the administration, and other public bodies; it also ensures that the different lines of opinion may be expressed and confronted.</p> <p>(7) Radio and television stations may operate only where a license to that effect has been delivered pursuant to a public competition held in accordance with the law.</p> | | | |
| <p>Slovakia</p> | <p>II. Criminal Code Act No. 300/2005 Coll. as amended <u>Section 193, par {1}: Any person, who by violence, threat of violence or threat of serious harm</u> a/ forces other person to take parting religious act, b/ unlawfully prevent others in taking part in religious act, or c/ unlawfully prevent others to enjoy the freedom of religion, shall be liable for a term of imprisonment of up to two years.</p> <p><u>Section 198 Defamation of a nation, race or conviction:</u> (1) Every person, who publicly defames a) nation, its language or a race, or b) group of inhabitants of the Republic on the grounds of their political opinion religion or because they do not belong to a religion, shall be punished by a term of imprisonment of up to one year, or by pecuniary penalty. (2) The offender will receive an imprisonment sentence of up to three years if he commits the offence referred to in paragraph 1 with at least two more persons."</p> <p><u>Section 198a Incitement to ethnic or racial hatred:</u> (1) Every person who publicly incites to hatred against a nation or a race or who incites to the restriction of rights and freedoms of persons belonging to a nation or a race shall be punished by a sentence of imprisonment of up to one year or by pecuniary penalty."</p> | <p><u>Article 26:</u> (1) Freedom of expression and the right to information shall be guaranteed. (2) Every person has the right to express his or her opinion in words, writing, print, images and any other means, and also to seek, receive and disseminate ideas and information both nationally and internationally. No approval process shall be required for publication of the press. Radio and television companies may be required to seek permission from governmental authorities to set up private businesses. Further details shall be provided by law. (3) Censorship shall be prohibited. (4) Freedom of expression and the right to receive and disseminate information may be lawfully limited only where, in a democratic society, it is necessary to protect rights and freedoms of others, state security, law and order, health and morality. (5) Governmental authorities and public administration shall be obligated to provide reasonable access to the information in the official language of their work and activities. The terms and procedures of the execution thereof shall be specified by law.</p> <p>II. Act no. 245/2008 Coll. on education (Education Act) and amending certain laws § 3 Principles of Education and</p> | <p>22. September 2010. Minister of Foreign Affairs Mikuláš Dzurinda met on Tuesday morning with the Secretary General of the Council of Europe Thorbjørn Jagland at the UN in New York. The Slovak Minister stated that the "information catalogues would not resolve the European problems with the Roma ethnic group." Mr. Jagland initiated a forthcoming summit of ministers of foreign affairs to address the growing problems with the Romas in France. European politicians wish to seek a joint approach to the issue. "Let's make sure that all children attend school, including secondary schools; that concerns all of them, including all Roma children. Otherwise we shall stagnate. Let's not lose time with activities that proved ineffective," suggested Mr. Dzurinda. At the same time he offered Mr. Jagland cooperation with the Slovak experts who had been involved in preparing solutions to the emergent situation. "Enough had been said about the Romas. It is time to act. This is not a matter of human rights. I believe it is a cultural issue which we have to resolve together as soon as possible," said Mr. Dzurinda in conclusion of the meeting.</p> <p>Source: http://www.mzv.sk/servlet/parizoe.cd?MT=/App/WCM/ZU/ParizOEC/D/main.nsf/vw_ByID/ID_621F5291AE4A5FD4C125715B004FFE51_EN&OpenDocument=Y&LANG=</p> | <p>The provisions of the Criminal Code regarding racially-motivated crimes are seldom implemented and few cases have been tried although an increase in racially-motivated violence against ethnic minorities including Roma, Hungarians, Jews as well as non-nationals from Africa, Asia and Latin America has been observed in the last few years. The authorities have stated that when the above-mentioned new Criminal Code was adopted, a new system for gathering statistics on racist crimes was introduced. As concerns these types of crimes, the authorities have noted that a high number of them are committed by unknown perpetrators who, for example write graffiti on walls. They have also noted cases of verbal attacks at sports events and in stadiums.</p> <p>The authorities have indicated that in 2006, 180 racially-motivated crimes were registered, in 2007, 155 such crimes were registered and as at July 2008, 157 racist crimes were registered. The authorities informed ECRI that between January 2008 and September 2008, there were 10 prosecutions in Košice and Prešov (areas with a high number of Roma), some under Article 424 of the Criminal Code (incitement to racial hatred) and others under Article 422 (1) (supporting and promoting groups leading to the</p> | <p>I. The Government of the Slovak Republic Action Plans to Prevent All Forms of the Discrimination, Racism, Xenophobia, Anti-semitism and Other Forms of Intolerance <u>Action plan</u> for the Period of 2000-2001 <u>Resolution</u> of the Government of the Slovak Republic No. 283/2000 Concerning the Action Plan for the Period of 2000-2001 <u>Explanatory report</u> Concerning the Action Plan for the Period of 2000-2001 <u>Action plan 2002 - 2003</u> and resolution of the Government of the Slovak Republic No. 207/2002, <u>Submission Report Action Plan 2002-2003</u> <u>Conference</u> on the occasion of the International Day of Human Rights - "Importance of Human Rights in Modern Society: Slovakia One Year after Entry into EU", <u>Joint Statement</u> by Conference Participants on the International Human Rights Day, 9.12.2005 <u>Action plan</u> for the Period of 2006-2008 <u>Resolution</u> of the Government of the Slovak Republic <u>No. 287/2006</u> of the of 5 April 2006 for the Period of 2004-2005 and Action for the Period of 2006-2008</p> <p>II. The Manifesto of the Government of the Slovak Republic - August 2006 (extracts) 3. <u>Social policy</u>, Support for</p> |

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| | <p>(2) The same punishment shall be imposed on every person who associates or assembles with others with the intent to commit the offence referred to in paragraph 1."</p> <p>Supporting and promoting of groups leading to the suppression of fundamental rights and freedoms</p> <p><u>Section 421:</u> (1) Any person who supports or makes propaganda for a group of people which by violence, threat of violence or threat of other serious harm aims at suppressing fundamental rights and freedoms, shall be liable to a term of imprisonment of one to five years.</p> <p><u>Section 422:</u> (1) Any person who publicly demonstrates, in particular, by using flags, badges, uniforms, slogans, his sympathies for movements leading to the suppression of fundamental rights and freedoms shall be liable to a term of imprisonment of six month to three years.</p> <p><u>Section 422a Production of extremist materials:</u> (1) Any person who produces extremist's materials is liable to a term of imprisonment from three to six years.</p> <p><u>Section 422b Dissemination of extremist materials:</u> (1) Any persons who copies, transports, contrives, makes accessible, circulates, imports, exports, offers, sells, consigns or disseminates the extremist materials, is liable to a term of imprisonment from one to five years.</p> <p><u>Section 422c Harboring of extremist materials:</u> (1) Any person who harbours the extremist's materials is liable to a term of imprisonment up to two years.</p> <p><u>Section 423 Defamation of a nation, race and conviction:</u> (1) Any person who publicly</p> | <p><u>Training:</u> Education and training under this Act are based on the principles ...</p> <p>d) ban of all forms of discrimination and segregation, in particular ...</p> <p>j) preparation for responsible life in a free society in a spirit of understanding and tolerance, equality between men and women, friendship among peoples, ethnic groups and ethnic and religious tolerance...</p> <p>l) integration of the educational system of the Slovak Republic into the European educational area with regard to their own experiences and traditions ...</p> <p>o) prohibiting the provision or disclosure of information or misuse of information resources, which could lead to distortions of morality or incite national, racial and ethnic hatred or other forms of intolerance</p> | <p>EN&HM=50-spravy&NCH=Y&OB=1001&DS=Y&TG=BlankMaster&URL=/App/WCM/Aktualit.nsf/vw_ByID/ID_2F0089FFD485664AC12577A7003589CF</p> <p>September 2, 2010 Amnesty International has urged the Slovak government to immediately end the segregation of Roma children in the country's education system. This practice leaves thousands of Roma pupils in substandard education in schools and classes for pupils with "mild mental disabilities" or ethnically segregated mainstream schools and classes. In a briefing to the Slovak government, Steps to end segregation in education, Amnesty International points to serious gaps in the enforcement and monitoring of the ban on discrimination and segregation in the Slovak educational system. Amnesty International called on the Slovak authorities to:</p> <ul style="list-style-type: none"> * Provide the State School Inspectorate with adequate resources, including robust, detailed guidelines and procedures on how to identify, monitor and combat segregation in practice; * Begin the systematic collection of data on education, disaggregated on the basis of gender and ethnicity; * Introduce a clear duty on all schools to desegregate education and provide them with effective support; * Introduce adequate support measures for Roma and non-Roma children who need extra assistance, so that they may achieve their fullest potential within mainstream schools. <p>Source: http://www.amnesty.org/en/news-and-updates/report/slovak-government-urged-end-</p> | <p>suppression of fundamental rights and freedoms). There has been a rise in the last few years in racially-motivated physical and verbal attacks against members of ethnic minorities such as Roma, Hungarian and Jewish minorities, as well as against foreigners such as Africans, Asians and persons from Latin America. The perpetrators of these acts are usually members of skinhead or neo-Nazi groups and reports indicate that the authorities' reaction to these crimes varies. It has been reported that it is not uncommon for prosecutors to charge the offenders under the more easy to prove simple assault charge to increase the likelihood of conviction. This results in the perpetrators avoiding the heavier sentence which they would incur under the relevant provisions of the Criminal Code. On this point, the authorities have indicated that proving the racist motivation of a crime is difficult. As Slovakia has amended the Criminal Code to include racially motivated crimes, the relevant provisions of this Code should be applied to all such crimes and that other provisions should not be relied upon to prosecute these types of crimes. The authorities have indicated in this regard that the Criminal Code will be amended to cover a broader range of crimes.</p> <p>Source: ECRI Report on Slovakia, 2009, available at: http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Slovakia/SVK-CbC-IV-2009-020-ENG.pdf</p> <p>Constitutional Court (ÚS) PL. ÚS 3/2001 Prohibition of multiple memberships in political parties (ÚS) IV. ÚS 272/07 Alleged</p> | <p>Social Inclusion: 3. 5 Support of Gender Equality; <u>6. Culture:</u> 6. 4 Local and Minority Culture; 6.6 Churches and Religious Societies <u>7. Democracy and Rule of Law:</u> 7. 1 Democratic State; 7. 3 Internal Order and Security</p> <p>III. CIVIC RESPONSIBILITY AND CO-OPERATION Manifesto of the government of the Slovak Republic for the period of 2010 – 2014, August 2010 (extracts) <u>3. State for citizens:</u> 3.1 Protection and promotion of human rights 3.2 Labour, Social Affairs and Family (Roma settlements and marginalised communities; Art and State language; Disadvantaged groups, churches and religious communities) <u>4.2 Internal order and security</u></p> <p>See Addendum</p> |
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| | <p>defames</p> <p>a) a nation, its language, a race or an ethnic group, or</p> <p>b) a group of people because of their religion or because they have no religion shall be liable to a term of imprisonment not exceeding one year.</p> <p><u>Section 424 Incitement to national, racial and ethnic hatred:</u></p> <p>(1) Any person who publicly</p> <p>a) threatens an individual or a group of people because of their nation, nationality, race or ethnicity or the colour of their skin by restraining their rights and freedoms, or any person who made such a restriction, or</p> <p>b) incites to hatred against a nation or a race, or to the restriction of rights and freedoms of a nation, a nationality, a race, or an ethnic group, shall be liable to a term of imprisonment not exceeding three years.</p> <p><u>Section 424a Incitement, defamation and threatening of person for reason of race, nation, nationality, colour of skin, ethnic group or gender:</u></p> <p>(1) Any person who publicly</p> <p>a) incites to violence or hatred against a group of people or individual for the reason of race, nation, nationality, colour of skin, ethnic group, gender or for religion, if it is pretext for incitement from given reasons, or</p> <p>b) defames such a group or individual or threatens them by publicly excusing act considered by articles 6,7 and 8 of the Rome Statute of International Criminal Court to be genocide, crime against humanity or war crime or crime considered by article 6 of the Rome Statute of International Criminal Court annexed to the Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis dated 8 August 1945 to be a crime against peace, war crime or crime against humanity, if the act</p> | | <p>segregation-romani-children-2010-09-02</p> <p>See Addendum</p> | <p>violation of a fundamental right under Art. 47. 2 of the Constitution and the Slovak Republic under Art. Paragraph 37 sec. 2 of the Charter of Fundamental Rights and Freedoms (ÚS) IV. ÚS 16/06 The content of the basic right to freedom of expression and the fundamental right to information (ÚS) I. ÚS 67/06 Collision between two fundamental rights before the general court (ÚS) III. ÚS 169/03 The fundamental right to information under Art. 26. 1 and 2 of the Constitution of the Slovak Republic and Art. Paragraph 10 sec. 1 of the Convention on the Protection of Human Rights and Fundamental Freedoms (ÚS) II. ÚS 26/02 Right to information and freedom to search for and dissemination of information - Art. 26. 1 and 2 of the Constitution of the Slovak Republic (ÚS) I. ÚS 13/02 The right to stand in elections, right to information (ÚS) I. ÚS 57/2000 Rights of petitioners for free reception and dissemination of information (ÚS) III. ÚS 64/2000 Invoking own right before independent and impartial court (ÚS) II. ÚS 44/2000 Impeding the exercise of the right of petition (ÚS) II. ÚS 7/2000 Right for free reception of information (Art.. 26 sec. 1 of the Constitution) (ÚS) II. ÚS 10/1999 Election – NGO Civic eye and right to receive information, jurisdiction of the Constitutional Court of the SR to rule in case of violation of constitutional rights by the Central Election Commission (ÚS) PL. ÚS 15/1998 To the constitutionality of the Act on election to the Slovak National Council (ÚS) PL. ÚS 19/98 Elections to municipal bodies, the</p> | |
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| | <p>is committed against such a group of people or individual, or if the perpetrator or co-perpetrator of this act was condemned by irrevocable sentence of the international court, if it was not abolished in legal proceeding, publicly denies or seriously detracts such an act, if it is committed against such person or individual, is liable to e term if imprisonment from one to three years.</p> <p>III. Act no. 372/1990 Coll. on offenses as amended <u>§ 49 Offences against civic propriety:</u> (1) An offense is committed by a person who a) another hurts in honor, another offends or issues to hissing, ... d) intentionally disturbs civic propriety, threats of injury to health, minor bodily harm, false accuses of misconduct, deliberate or otherwise rude behavior, (2) For an offense under paragraph 1. a) may be imposed a fine of up to 33 euros, for an offense under paragraph 1. b) to d) and. f) fine and to € 99 for an offense under paragraph 1. e) a fine of up to 331 euros.</p> | | | <p>constitutionality of the amendment to Act no. 233/1998 Z.z. on election to municipal bodies (ÚS) PL. ÚS 8/96 Linguistic aspect of the application of fundamental rights and freedoms (ÚS) II. ÚS 28/96 About Freedom of Expression and Right to Information</p> | |
| <p>Spain</p> | <p>Constitution Article 14: Spaniards are equal before the law, without any discrimination for reasons of birth, race, sex, religion, opinion, or any other personal or social condition or circumstance.</p> <p>Criminal Code Article 510 1. Those that incite to incur in discriminatory acts, hate or violence against groups or associations for racist reasons, anti-Semitic or other reasons that refer to ideology, religion or beliefs, family situation, belonging of their</p> | <p>Spanish Constitution Article 20: 1. The following rights are recognized and protected: 1. the right to express or freely disseminate thoughts, 2. ideas and opinions through words, by writing or any other means; 3. the right to produce and create literature, artistic expression, scientific or technical creations; 4. the right to enjoy academic freedom; 6. the right to communicate or freely receive truthful information for any means of diffusion. Freedom of conscience and professional secret in the exercise of those rights will be regulated by law.</p> | <p>See Addendum</p> | <p>See Addendum</p> | |

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| | <p>members to an ethnicity or race, national origin, sex, sexual orientation, illness or handicap will be punished with a penalty of prison between one to three years and a fine of six to twelve months of salary.</p> <p>2. It will be punished with the same penalty the conduct of those that, with knowledge of its untrue nature, spread offensive information about groups or associations with relation to their ideology, religion or beliefs, belonging of their members to an ethnicity or race, national origin, sex, sexual orientation, illness or handicap.</p> <p>Article 515: Illicit associations are punishable, including: e) Those that promote discrimination, hate and violence against persons, groups or associations for reasons of their ideology, religion or beliefs, belonging of their members to a ethnic group, race or nation, their sex, sexual orientation, family situation, illness or handicap or incite to those conducts.</p> <p>Article 518 : Those that with their economic or any relevant support, favor the creation of organizations or of activities of associations included in numbers 1 and 3 of article 515, will incur in the penalty of prison between one to three years, fine of twelve to twenty-four months of their salary and disablement for any employment or public appointment between one to four years.</p> <p>Article 519: Incitement, conspiracy and proposition to commit the crime of illicit association will be punished with a penalty inferior in one or two levels to that applied,</p> | <p>2. The exercise of those rights cannot be restricted through any kind of previous censorship.</p> <p>3. The organization and parliamentary control of the media that are dependant of the State or of any public entity will be guaranteed by law; as well as the access to those media of relevant social and political groups, with respect of the social, cultural and linguistic pluralism in Spain.</p> <p>4. These freedoms have their limit when respecting the rights recognized in this Title, in the legal clauses that regulate their implementation and especially in the right to honor, intimacy, public image and youth and childhood protection.</p> <p>5. Confiscation of publications, recordings, and other means of information will only be decided upon judicial order</p> <p>Article 514 Criminal Code Those that impede the legitimate exercise of the freedoms of association and demonstration or gravely perturb the celebration of a licit meeting or demonstration will be punished with a penalty of between two to three years of prison if the acts of impediment are violent; and between six to twelve months if the impediment is made through other illegitimate means.</p> | | | |
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| | <p>respectively, to the acts foreseen in the previous articles.</p> <p><u>Article 522:</u> Those that incur in the following crimes will be punished with a fine of four to ten months of daily salary:</p> <ol style="list-style-type: none"> 1. To impede, through violence, intimidation or other illegitimate means, a member or members of a religious confession to practice acts related to the practice of their religion beliefs. 2. To force others to practice acts of cult or rituals or act in a manner that might reveal the practice or absence of a religious belief, or to force others to change their religion. <p><u>Article 523:</u> The person that impedes, interrupts or perturbs acts, functions or ceremonies of the religious confessions registered in the public registry of the Interior and Justice Ministry, will be punished with a penalty of between six months to six years of prison, if the act has been committed in a place destined to the cult and with a fine of four to ten months of daily salary if the act is committed in any other place.</p> <p><u>Article 524:</u> The person that in a place for cult or during a religious ceremony, execute an act of profanation, offending religious beliefs legally protected, will be punished with the penalty of prison from six months to one year or a fine between six to twenty-four months of daily salary.</p> <p><u>Article 525:</u> 1. Those that, in order to offend the feelings of members of a religious confession, make public derision, orally, by writing or through any type of document, of</p> | | | | |
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| | <p>their dogmas, beliefs, rituals or ceremonies or mistreat, also publicly, those who practice that religion, will be punished with a fine between eight to twelve months of their salary.</p> <p>2. Those that make public derision, orally or by writing, of persons who do not profess any religion will incur in the penalties set in the previous paragraph.</p> <p><u>Article 60Z:</u></p> <p>1. Those who with the purpose of destroying totally or partially a national group, ethnic, racial or religious, by committing the following acts, will be punished:</p> <p>1) With the penalty of prison between fifteen to twenty years, if they kill any of their members. A punishment of superior level will be imposed if one or two aggravating circumstances concur in the criminal act.</p> <p>2) With prison between fifteen to twenty years if they sexually attack any of their members or produce any of the injuries foreseen in article 149.</p> <p>3) With prison of eight to fifteen years if they place the group or any of its members into conditions of existence that would endanger their life or provoke grave damage to their health, or if they produce them injuries foreseen in article 150.</p> <p>4) With the same punishment actions that provoke forced displacement of the group or any of its members, adopt any measure with the intention to impede their way of life or reproduction, or forcibly displace individuals from one group to another, will be sanctioned.</p> <p>5) With four to eight years of prison if they produce any other injury than those foreseen in numbers</p> <p>2. The diffusion, through any means, of ideas or doctrines that deny or justify the crimes</p> | | | | |
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| | foreseen in the previous paragraphs of this article or intend to create regimes or institutions that allow practices resulting in those crimes, will be sanctioned with prison between one to two years. 2 and 3 of this article. | | | | |
| Switzerland | <p>Swiss Penal Code Article 261 bis: Celui qui, publiquement, aura incité à la haine ou à la discrimination envers une personne ou un groupe de personnes en raison de leur appartenance raciale, ethnique ou religieuse; celui qui, publiquement, aura propagé une idéologie visant à rabaisser ou à dénigrer de façon systématique les membres d'une race, d'une ethnique ou d'une religion; celui qui, dans le même dessein, aura organisé ou encouragé des actions de propagande ou y aura pris part; celui qui aura publiquement, par la parole, l'écriture, l'image, le geste, par des voies de fait ou de toute autre manière, abaissé ou discriminé d'une façon qui porte atteinte à la dignité humaine une personne ou un groupe de personnes en raison de leur race, de leur appartenance ethnique ou de leur religion ou qui, pour la même raison, niera, minimisera grossièrement ou cherchera à justifier un génocide ou d'autres crimes contre l'humanité; celui qui aura refusé à une personne ou à un groupe de personnes, en raison de leur appartenance raciale, ethnique ou religieuse, une prestation destinée à l'usage public, sera puni d'une peine privative de liberté de trois ans au plus ou d'une peine pécuniaire.</p> | <p>Federal Constitution of the Swiss Confederation: <u>Art. 16 Freedom of expression and Information</u> 1 Freedom of expression and of information is guaranteed. 2 Everyone has the right freely to form, express, and impart their opinions 3 Everyone has the right freely to receive information to gather it from generally accessible sources and to disseminate it.</p> <p><u>Art. 17 Freedom of the media</u> 1. Freedom of the press, radio and television and of other forms of dissemination of features and information by means of public telecommunications is guaranteed. 2. Censorship is prohibited. 3. The protection of sources is guaranteed.</p> <p>There are more fundamental rights related to communication: see Addendum.</p> | <p>Prior to the vote on the banning of Minarets in Switzerland (which took place at the end of 2009), the right-wing SVP (Swiss Peoples Party - which was the initiating party) put up a very controversial poster, which was prohibited by some Swiss cities in the light of the racial discrimination article.</p> <p>(See Addendum)</p> | <p>Federal Court <i>BGE 130 IV 111</i> Private functions with invited guests (in this case Skinheads) are also "public" and fall within the scope of application of Art. 261bis Penal Code. <i>BGE 129 IV 95</i> The denial of Holocaust clearly falls within the scope of application of Art. 261bis. <i>6B_398/2007</i> The Federal Court sentenced Dogu Perincek (leader of the Turk labor party) to pay a monetary penalty because he publicly denied (in several speeches) the Armenian genocide.</p> <p>(See Addendum)</p> | <p>The Federal Commission against racism published a position paper on the public placard of the Minaret poster and the prohibition of the poster by some Swiss cities, criticizing the People's Initiative "Against the Construction of Minarets" (the "Minaret Initiative"). It claims that the initiative defames Muslims and violates religious freedom, which is protected by fundamental and human rights, and the ban on discrimination. (Position Paper available at http://www.ekr.admin.ch/aktuell/index.html?lang=en)</p> |
| Tajikistan | <p>Constitution Article 2: The state language of Tajikistan is Tajik. Russian is a</p> | <p>Constitution Article 30: Each person is guaranteed the freedoms of</p> | <p>There have been no discrimination or hate related crimes officially</p> | <p>UNHCR is not aware of any court cases relating to those articles of the Criminal Code as well as in</p> | |

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| | <p>language of inter-ethnic communication. All nations and peoples residing on the territory of the republic have the right to use freely their native languages.</p> <p><u>Article 17:</u> All persons are equal before the law and the courts. The government guarantees the rights and freedoms of every person regardless of ethnicity, race, sex, language, faith, political beliefs, education, or social or property status. Men and women have equal rights.</p> <p>Criminal Code <u>Article 5.</u> Persons who have committed crimes are equal before the law and they are liable to criminal responsibility irrespective of sex, race, nationality, language, religion, political convictions, education, social, official and property status, belonging to public unions, place of living and other circumstances.</p> <p><u>Article 110:</u> (1) Intentional major bodily injury which is life-threatening, or which has lead to the loss of sight, speech, hearing, or any body organ, or inability of an organ to functioning, or expressed in irremediable damage to the face, as well as other injury to the health which is life-threatening or caused a disorder of health along with a stable loss of common capability to work not less than 1/3, or knowingly for the guilty person with the full loss of professional capability to work, or caused the miscarriage, mental illness, sickness of drug dependence or taxicomania is punishable by imprisonment for a period of 5 to 10 years.</p> <p>(2) The same actions, if committed: m) on the ground of national, racial, religious, locality hatred or hostility, or vendetta; is punishable by imprisonment for a</p> | <p>speech and the press, as well as the right to use information media. Governmental censorship and prosecution for criticism are forbidden. A list of information considered secrets of the state is determined by law.</p> | <p>registered/processed in 2009. The Republic of Tajikistan condemns apartheid and racial segregation.</p> | <p>general to crimes related to discrimination in 2009. Tajikistan state reports to the Committee on Elimination of Racial Discrimination do not provide any statistic with regard to crimes mentioned above.</p> | |
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| | <p>period of 8 to 15 years simultaneously with confiscation of property or without it.</p> <p><u>Article 111:</u> (1) Intentional minor bodily injury which is not life-threatening and does not result in consequences provided for in Article 110 of the present Code, but causes continuing health problems or major physical disability with the loss of 1/3 of the capability to work is punishable by up to 2 years of correctional labor, or up to 3 years of imprisonment.</p> <p>(2) The same action, if committed: f) on the ground of national, racial, religious, locality hatred or hostility, as well as vendetta; by an individual who has earlier committed major bodily injury or murder specified in Articles 104 and 110 of the present Code is punishable by imprisonment for a period of 3 to 5 years.</p> <p><u>Article 117:</u> (1) Causing physical or mental sufferings by systematic assault or other forcible means if it does not lead to the consequences specified in Articles 110 and 111 of the present Code is punishable by up to 3 years of imprisonment.</p> <p>(2) The same actions, if committed: i) on the ground of national, racial, religious, locality hatred or hostility, as well as vendetta, - is punishable by imprisonment for a period of 5 to 8 years.</p> <p><u>Article 113:</u> (2) Murder: m) on the ground of national, racial, religious, locality hatred or hostility, as well as vendetta; is punishable by imprisonment for a period of 15 to 20 years simultaneously with confiscation of property, or death penalty.</p> <p><u>Article 143:</u> (1) Direct or indirect violation or restriction of rights</p> | | | | |
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| | <p>and freedoms of an individual and citizen depending on sex, race, nationality, language, social origin, personal, financial or official position, place of residence, attitude to religion, convictions, belonging to public units, causing damage to the rights and lawful interests of a citizen, is punishable by a fine in the amount of 200 to 500 times the minimum monthly wage, or deprivation of freedom for up to 2 years.</p> <p>(2) The same actions, committed by a person:</p> <p>a) using violence or threat of violence;</p> <p>b) using his official position, are punishable by imprisonment for a period of 2 to 5 years with deprivation of the right to hold certain positions or be engaged in certain activities for up to 3 years or without it.</p> <p><u>Article 189:</u> (1) The actions, which lead to arousing national, racial, local or religious hostility, or dissension, humiliating national dignity, as well as propaganda of the exclusiveness of citizens by a sign of their relation to religion, national, racial, or local origin, if these actions were committed in public or using means of mass media are punishable by up to 5 years of restriction of liberty or imprisonment for the same period of time.</p> <p>(2) The same actions, if committed:</p> <p>a) repeatedly;</p> <p>b) using violence or threat of its using;</p> <p>c) using an official position;</p> <p>d) by a group of individuals or group of individuals in a conspiracy, -</p> <p>are punishable by imprisonment for a period of 5 to 10 years simultaneously with deprivation of the right to hold certain positions or to be involved in a certain</p> | | | | |
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| | <p>activity of 2 to 5 years or without it.</p> <p>(3) The actions, specified in paragraphs 1 and 2 of the present Article, if they:</p> <p>a) committed by an organized group;</p> <p>b) caused carelessly death of a human or other serious consequences;</p> <p>c) caused forcible expulsion of a citizen from his permanent place of residence;</p> <p>d) committed by a dangerous or an especially dangerous recidivist, -</p> <p>are punishable by imprisonment for a period of 8 to 12 years simultaneously with deprivation of the right to hold certain positions or to be involved in a certain activity for up to 5 years or without it.</p> <p><u>Article 243:</u> Desecration of Corpses and Places of Their Burial</p> <p>(1) Desecration of corpses or damaging and destruction of graves or places of burial, is punishable by a fine in the amount of 300 to 500 the monthly minimum wage, or in the amount appropriate to the part of an offender's wage or another income for a period of 1 to 4 months, by up to 3 years' limitation of freedom, or by confinement for up to 6 months.</p> <p>(2) The same actions committed:</p> <p>b) on the motive of national, race, religious hostility;</p> <p>are punishable by deprivation of freedom for a period of 2 to 5 years.</p> <p><u>Article 398:</u> Actions committed with the intent of full or partial destruction of a national, ethnic, racial, or religious group by full or partial physical extermination, violent diminishing of child - bearing or transfer of children from one of these human groups</p> | | | | |
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| | to another, causing grave injury to their health, as well as creation of living conditions leading to physical liquidation of members of the group are punishable by imprisonment for a period of 15 to 20 years or death penalty. | | | | |
| Ukraine | <p>Constitution <u>Article 24:</u> There shall be no privileges or restrictions based on race, colour of skin, political, religious and other beliefs, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics.</p> <p>Criminal Code – <u>Article 67. Circumstances aggravating punishment</u> 1. For the purposes of imposing a punishment, the following circumstances shall be deemed to be aggravating: (3) the commission of an offense based on racial, national or religious enmity and hostility; <u>Article 161. Violation of citizens' equality based on their race, nationality or religious preferences</u> 1. Willful actions inciting national, racial or religious enmity and hatred, humiliation of national honor and dignity, or the insult of citizens' feelings in respect to their religious convictions, and also any direct or indirect restriction of rights, or granting direct or indirect privileges to citizens based on race, color of skin, political, religious and other convictions, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics, - shall be punishable by a fine up to 50 tax-free minimum incomes, or correctional labor for a term up to two years, or restraint of liberty for a term up to five years, with or without the deprivation of the right to occupy certain positions or engage in certain activities for a</p> | <p>Constitution <u>Article 34:</u> Everyone is guaranteed the right to freedom of thought and speech, and to the free expression of his or her views and beliefs.</p> | <p>The following initiatives and developments caused concern of UNHCR in 2009:</p> <ul style="list-style-type: none"> - Hate speech during the presidential campaign. - Activities of Patriot Ukraine. - Crackdown on youth groups. - Response to the flu outbreak; the local population was asked through announcements to report about each and every encounter with foreigners from the Middle East and South East Asia to the police hotline as they allegedly pose a threat. - Concept on national and patriotic upbringing of youth in Ukraine caused concerns of human rights organizations. <p>Examples of attacks and manifestation of xenophobia and racism:</p> <ul style="list-style-type: none"> - In April the office of the Chernihiv Civic Committee for the Protection of Human Rights was daubed with graffiti and images of an anti-Semitic and xenophobic nature. - In September a group of unknown young people left Nazi symbols on the main entrance door to the NGO HIAS office in Kyiv. - In January 2009 Chernihiv Civic Committee for the Protection of Human Rights has reported about the attack against a recognised refugee of Chechen origin residing in Chernigiv. - Racial profiling and police harassment remained widespread in Ukraine. Crimes against persons of concern to UNHCR included beatings, blows to heads and bodies, knife | | <ul style="list-style-type: none"> - Joint instruction (No. 11/121) for law enforcement personnel to begin registration of crimes committed on the basis of racial, ethnic or religious intolerance. - Ministry of Interior (Mol) pledged its utmost support to projects countering xenophobia and invited organizations interested in addressing xenophobia to contribute to the complex action plan to be soon adopted by the Minister. Instructions to strengthen focus on prevention of racial attacks have been given by the Minister and Deputy Minister to all heads of the Mol departments in the regions. For the first time the Minister has acknowledged the problem in public and told media about the decision to establish special legal units dealing with racial crimes. In April-May 2007 UNHCR and its partners have already noted some positive results of the strong position taken by the Mol, namely prevention of neo-Nazi marches devoted to the SS-Halychyna in various cities of Ukraine and arrests of four suspects (on the case of beating of an Egyptian diplomat and a racially motivated incident in the Arena night club in Kyiv). - On 26 April 2007 the Minister of Education made a public statement acknowledging racial incidents targeting foreign students, condemning racial violence and calling for urgent action. UNHCR and IOM have invited the Ministry to join the counter-xenophobia working group and designate a focal point |

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| | <p>term up to three years.</p> <p>2. The same actions accompanied with violence, deception or threats, and also committed by an official, - shall be punishable by correctional labor for a term up to two years, or imprisonment for a term up to five years.</p> <p>3. Any such actions as provided for by paragraph 1 or 2 of this Article, if committed by an organized group of persons, or where they caused death of people or other grave consequences, - shall be punishable by imprisonment for a term of two to five years.</p> | | <p>wounds.</p> <p>(see Addendum)</p> | | <p>dealing with this issue.</p> <p>For more government steps, see Addendum.</p> |
| <p>United Kingdom</p> | <p>The Racial and Religious Hatred Act (2006) (Abstracts, for full text see http://www.legislation.gov.uk/ukpga/2006/1/contents) <u>Section 29 A:</u> In this Part "religious hatred" means hatred against a group of persons defined by reference to religious belief or lack of religious belief. <u>Section 29B:</u> Use of words or behaviour or display of written material (1)A person who uses threatening words or behaviour, or displays any written material which is threatening, is guilty of an offence if he intends thereby to stir up religious hatred. ... <u>Section 29C:</u> Publishing or distributing written material (1)A person who publishes or distributes written material which is threatening is guilty of an offence if he intends thereby to stir up religious hatred. ... <u>Section 29D:</u> Public performance of play (1)If a public performance of a play is given which involves the use of threatening words or behaviour, any person who</p> | <p>The Racial and Religious Hatred Act (2006) <u>Section 29J:</u> Protection of freedom of expression Nothing in this Part shall be read or given effect in a way which prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practising their religion or belief system.</p> | <p>The vigorous debate currently being held regarding immigration in the UK has revealed a tendency on the fringes of the political debate for views to be expressed that are at best demeaning of migrants and at worst xenophobic or racist. Some mainstream politicians' statements may have stigmatised certain groups, such as refugees, asylum-seekers or migrant workers. Voters tend to deflect significantly away from main political parties between general elections. The British National Party (BNP) which has presented increasingly anti-Muslim and anti-immigrant views and whose leader has previously been convicted for the distribution of material likely to incite racial hatred, has built significant local support in certain areas. BNP won two seats in June 2009 European elections. There is a new Editors Code of Practice re magazine and newspaper publishing since 2007. However, Muslims, migrants, asylum-seekers and gypsies/travellers are regularly presented in a negative light in the mainstream media, and in</p> | <p>13,008 defendants were prosecuted for crimes involving racial or religious aggravation in 2007-08, nearly 1.300 more than the previous year. At the same time, the proportion of unsuccessful prosecutions in cases involving racial or religious aggravation dropped to 20.1% in 2007-08.</p> <p>Source: ECRI Report on the United Kingdom, 2010, available at: http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/United_Kingdom/GBR-CbC-IV-2010-004-ENG.pdf</p> | |

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| | <p>presents or directs the performance is guilty of an offence if he intends thereby to stir up religious hatred.</p> <p>...</p> <p><u>Section 29E:</u> Distributing, showing or playing a recording</p> <p>(1)A person who distributes, or shows or plays, a recording of visual images or sounds which are threatening is guilty of an offence if he intends thereby to stir up religious hatred.</p> <p>...</p> <p><u>Section 29F:</u> Broadcasting or including programme in programme service</p> <p>(1)If a programme involving threatening visual images or sounds is included in a programme service, each of the persons mentioned in subsection (2) is guilty of an offence if he intends thereby to stir up religious hatred.</p> <p>...</p> <p><u>Section 29G:</u> Possession of inflammatory material</p> <p>(1)A person who has in his possession written material which is threatening, or a recording of visual images or sounds which are threatening, with a view to—</p> <p>(a)in the case of written material, its being displayed, published, distributed, or included in a programme service whether by himself or another, or</p> <p>(b)in the case of a recording, its being distributed, shown, played, or included in a programme service, whether by himself or another,</p> <p>is guilty of an offence if he intends religious hatred to be stirred up thereby. ...</p> <p>The Crime and Disorder Act (1998) (Abstacts, for full text, see http://www.legislation.gov.uk/ukpga/1998/37/part/II/crossheading/racially-or-religiously-aggravated-offences-england-and-wales)</p> | | <p>particular in the tabloid press, where they are frequently portrayed, for example, as being by definition associated with terrorism, sponging off British society, making bogus claims for protection or being troublemakers; civil actors have in some cases observed direct links between minority groups targeted by the media and minority groups targeted in violent attacks.</p> <p>Violence, desecration of property and intimidation directed against Jews as well as anti-semitic discourse seems to be on the rise, including on university campuses. The far right is no longer the sole source of anti-semitism. Increases in anti-semitic violence tended to be linked in time with outbreaks of violence in the Israeli-Palestinian conflict. The government has reacted with effective implementation of strong legislation and of policies and strategies to increase racial equality and build community cohesion, including measures against anti-semitism. This response was hailed by the Jewish community as “the single most important action against UK anti-semitism for many years”.</p> <p>Public discourse about Muslims is frequently negative, whether in the mainstream (especially tabloid) press, on the internet, or in the discourse of political parties. The swift intervention of the authorities after the 2005 bombings was found to have deflected blame from the Muslim community as a whole and helped to prevent a media backlash. From 2000-2008, two thirds of newspaper articles about Muslims in Britain had portrayed British Muslims as either a threat or a problem; these articles increasingly used negative and stereotypical imagery.</p> | | |
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| | <p><u>Section 28:</u> (1)An offence is racially or religiously aggravated for the purposes of sections 29 to 32 below if—</p> <p>(a)at the time of committing the offence, or immediately before or after doing so, the offender demonstrates towards the victim of the offence hostility based on the victim's membership (or presumed membership) of a racial or religious group; or</p> <p>(b)the offence is motivated (wholly or partly) by hostility towards members of a racial or religious group based on their membership of that group.</p> <p>...</p> <p><u>Section 29:</u> Racially or religiously aggravated assaults.</p> <p>(1)A person is guilty of an offence under this section if he commits—</p> <p>(a)an offence under section 20 of the Offences Against the Person Act 1861 (malicious wounding or grievous bodily harm);</p> <p>(b)an offence under section 47 of that Act (actual bodily harm); or</p> <p>(c)common assault, which is racially or religiously aggravated for the purposes of this section.</p> <p>...</p> <p><u>Section 30:</u> Racially or religiously aggravated criminal damage.</p> <p>(1)A person is guilty of an offence under this section if he commits an offence under section 1(1) of the Criminal Damage Act 1971 (destroying or damaging property belonging to another) which is racially or religiously aggravated for the purposes of this section.</p> <p>...</p> <p><u>Section 31:</u> Racially or religiously aggravated public order offences.</p> <p>(1)A person is guilty of an offence under this section if he commits—</p> <p>(a)an offence under section 4 of the Public Order Act 1986 (fear or provocation of violence);</p> <p>(b)an offence under section 4A of that Act (intentional harassment, alarm or distress); or</p> | | <p>The tone of public discourse with respect to asylum-seekers remains frequently hostile. While the most virulent reporting seems to have abated to some extent as the number of asylum-seekers arriving in the UK has dropped, significant sections of the media, and notably the tabloid press, have continued to portray those seeking international protection in a relentlessly negative light, for example as criminals, abusers of the system or bogus asylum-seekers. Negative views have also been reflected in statements to the press by some politicians.</p> <p>Source: ECRI Report on the United Kingdom, 2010, available at: http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/United_Kingdom/GBR-CbC-IV-2010-004-ENG.pdf</p> | | |
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| | <p>(c)an offence under section 5 of that Act (harassment, alarm or distress), which is racially or religiously aggravated for the purposes of this section.</p> <p>...</p> <p>Section 32: Racially or religiously aggravated harassment etc. (1)A person is guilty of an offence under this section if he commits— (a)an offence under section 2 of the Protection from Harassment Act 1997 (offence of harassment); or (b)an offence under section 4 of that Act (putting people in fear of violence), which is racially or religiously aggravated] for the purposes of this section.</p> <p>...</p> <p>Criminal Justice Act (2003) Section 145: Increase in sentences for racial or religious aggravation (1)This section applies where a court is considering the seriousness of an offence other than one under sections 29 to 32 of the Crime and Disorder Act 1998 (c. 37) (racially or religiously aggravated assaults, criminal damage, public order offences and harassment etc). (2)If the offence was racially or religiously aggravated, the court— (a)must treat that fact as an aggravating factor, and (b)must state in open court that the offence was so aggravated. (3)Section 28 of the Crime and Disorder Act 1998 (meaning of “racially or religiously aggravated”) applies for the purposes of this section as it applies for the purposes of sections 29 to 32 of that Act.</p> <p>Public Order (Northern Ireland) (1987) Part III – stirring up hatred or</p> | | | | |
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| | <p>arousing fear. For full text see http://www.legislation.gov.uk/nisi/1987/463</p> <p>Northern Ireland Act (1998) <u>Section 75</u>: 1) A public authority shall in carrying out its functions relating to Northern Ireland have due regard to the need to promote equality of opportunity— (a)between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; ...</p> | | | | |
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