

Statement of the Legal Information Centre for Human Rights (Estonia)

Excellencies! Ladies and gentlemen!

I would like to present a statement on the topic „ *Follow-up of the 2009 Supplementary Human Dimension Meeting on Hate Crimes – Effective Implementation of Legislation* “

In Estonia the Penal Code plays a crucial role in the context of the struggle against hate speech: the Article 151 of the Code penalises “activities which publicly incite to hatred, violence or discrimination on the basis of ethnicity, race, colour, sex, language, origin, religion, sexual orientation, political opinion, or financial or social status”.

This Article has previously been efficiently used to fight hate speech in Estonia. For example, in January 2005, a court in Tallinn sentenced an individual to an 8,000 kroons (511 euros) fine for sending SMS-messages with racially motivated hostile statements to the SMS-chat of the Starman TV. In August 2005 the Tallinn city court sentenced an author of internet comments insulting the blacks and Jews to a 3,000 kroons (192 euros) fine. One of the statements was “Send Jews to the furnaces!” (“Juudid ahju!”).

However, in recent years this positive practice is not followed. Mostly due to the fact that in June 2006 the Parliament passed amendments to the Article 151 of the Penal Code.

It should be regarded as a positive change that the new version of the Article 151 introduced the responsibility of legal entities. Calls for discrimination were also added to the list of punishable offences.

At the same time, the applicability of the Article 151 was limited to cases where the illegal activities in question resulted at least in danger to the life, health or property of a person. As a result, the Penal Code can no longer operate in investigations into hate speech in the media (including internet) unless serious consequences have ensued.

An explanatory note accompanying the corresponding bill showed that it was one of the original purposes of the amendment to exclude cases where an individual ‘merely’ expressed his or her opinion publicly. The amendments affected the application of the Article 151 considerably and some previous investigations ended up being closed.

In 2007-2008 the Police Board opened no proceedings in connection with the Article 151 of the Penal Code.

While the 2006 amendments to several legal acts made it easier for law enforcement agencies to investigate crimes in the internet, the parliament also decriminalised most of hate speech crimes. It was inappropriate decision under the conditions when derogatory statements about ethnic and racial minorities are quite widespread in internet.

We believe that it is necessary to amend the Article 151 of the Penal Code to make it an efficient tool to fight hate speech crimes in Estonia.

Ladies and Gentlemen,

If you are interested to receive other details of the situation of the ethnic minorities in Estonia and in Latvia, including fight against discrimination and hate speech, you can consult the comprehensive report “Chance to Survive: Minority Rights in Estonia and Latvia”. This report was drafted by the Legal Information Centre for Human Rights and the Latvian Committee for Human Rights. The Russian version of the report can be uploaded from the site of our organization. The English version will be published very soon.

Thank you for you attention!

Legal Information Centre for Human Rights (Tallinn, Estonia)

<http://www.lichr.ee>