



General Assembly

Distr.: General
23 May 2022

Original: English

Human Rights Council

Fiftieth session

13 June–8 July 2022

Agenda item 9

Racism, racial discrimination, xenophobia and related forms of intolerance: follow-up to and implementation of the Durban Declaration and Programme of Action

Combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, E. Tendayi Achiume*

Summary

The present report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, E. Tendayi Achiume, is being submitted to the Human Rights Council pursuant to General Assembly resolution 76/149. In the report, the Special Rapporteur summarizes submissions of States regarding the actions they have taken to combat the glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and outlines relevant information submitted by non-governmental organizations. The Special Rapporteur provides information about the relevant international legal framework, and also provides recommendations for Member States.

* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.



Contents

	<i>Page</i>
I. Introduction	3
II. Submissions by Member States.....	3
III. Submissions by civil society stakeholders	10
IV. Applicable legal framework.....	12
V. Conclusions and recommendations	14

I. Introduction

1. The present report is submitted to the Human Rights Council pursuant to General Assembly resolution 76/149, in which the Assembly requested the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to submit a report on the implementation of that resolution to the Council at its fiftieth session.
2. In the present report, the Special Rapporteur summarizes information received from Member States with regard to the implementation of the above-mentioned resolution. She thanks Member States who made submissions for their contributions. She also expresses her gratitude for the submissions from four non-governmental organizations.
3. The Special Rapporteur notes, with alarm, that the Russian Federation has sought to justify its military invasion and territorial aggression in Ukraine on the purported basis of eliminating neo-Nazism. This is a blatant instrumentalization of the serious human rights concerns raised by neo-Nazi mobilizations where they exist. The Special Rapporteur interprets resolution 76/149 as seeking the genuine protection of groups and individuals subject to human rights violations rooted in neo-Nazism. The use of neo-Nazism as a pretext to justify territorial aggression seriously undermines genuine attempts to combat neo-Nazism. The Special Rapporteur denounces and condemns in the strongest terms such pretextual use, including in relation to the unlawful breach of the sovereign territory of Ukraine and the humanitarian crisis that breach has caused.
4. In the present report, the Special Rapporteur also outlines the governing principles and obligations of racial equality and non-discrimination, highlighting their application in combating racism and xenophobia. As in previous reports, she reminds Member States of the strong commitment required to tackle the increase in hate crime and incitement to violence targeting ethnic, racial and religious minorities worldwide. She also reminds States to consider the references in resolution 76/149 to the horrors of the Second World War, and to preventing future wars and saving succeeding generations from the scourge of war. She calls upon States to redouble efforts to address all forms of ethnic, racial and religious hatred, and to promote tolerance and understanding within and between countries.

II. Submissions by Member States

5. In the present section, the Special Rapporteur summarizes submissions provided by Member States on laws and policies in place to combat Nazism and neo-Nazism, but she does not analyse or evaluate these laws or policies. She underscores that providing the summaries of State submissions does not constitute her endorsement of their content. Indeed, some of the laws and policies summarized below, and/or gaps and weaknesses in the relevant legislative and policy frameworks, may be, or have been, subject to review and condemnation by other actors within the United Nations human rights system for being in contravention of international human rights law.

Albania

6. The Commissioner for Protection against Discrimination of Albania provided information about legal measures to address discrimination. The Commissioner outlines how the Law On Protection from Discrimination, No. 10 221 of 4 February 2010, regulates the application and observance of the principle of equality and non-discrimination in relation to, inter alia, race, ethnicity, colour, language, citizenship, political affiliation, religion, gender, gender identity, sexual orientation and/or sex characteristics. According to the information provided, the Law was amended in 2020 to include new forms of discrimination, such as multiple discrimination, intersectional discrimination, hate speech, segregation, sexual harassment, structural discrimination, incitement to or aiding another to discriminate and the proclaimed intention of discrimination. An additional provision on “serious forms of discrimination” doubles the sanctions imposed on perpetrators.
7. The role of the Commissioner is to monitor implementation of Law 10 221, which includes the handling of individual complaints. According to information provided, in 2021 the Commissioner issued 15 decisions and 1 recommendation in cases where racial

discrimination had been alleged. Most complaints alleged discrimination in the delivery of public services. Examples provided included cases involving enrolment in preschool education for Roma and Egyptian children; the use in the media of discriminatory expressions, by persons participating in the public life of the country, to pejoratively label individuals from the Egyptian community; delays in the legalization of housing for members of the Roma and Egyptian communities; and non-provision of services by local self-government units, on the basis of non-objective criteria.

8. In 2021, the Commissioner received seven complaints of hate speech and found the use of hate speech in two cases. In one case, a religious representative and leader was found to have used hate speech against the lesbian, gay, bisexual, transgender and intersex community, and in another case, the Commissioner identified the use of hate speech by a politician. According to the information provided, hate speech linked to racist violence had not been identified in the country.

9. Albania also provided information about recourse to the national courts in cases of discrimination. In its submission, a case was cited in which indirect discrimination against a citizen by the Municipality of Tirana and the Tirana Municipal Police, on grounds of race, ethnicity and economic status, was ascertained. In the case, the Administrative Court of First Instance Tirana ordered the defendants to pay the victim 2,504,467 leks, as non-property damage.

10. The Government also described plans to undertake an in-depth study on hate speech, based on cooperation between the Commissioner, the European Union and the Council of Europe.

Azerbaijan

11. Azerbaijan provided information about the legal measures in place to protect individuals from discrimination on the basis of race, ethnicity, religion and other grounds. They include article 25 of the Constitution, which guarantees equal rights to everyone. The Government elaborated further on the legal framework, explaining that article 154.1 of the Criminal Code stipulated criminal liability for the infringement of the equality of citizens in a way that caused harm to their rights and legitimate interests. Article 10 of the Law on Mass Media, which prohibits the dissemination of prohibited information and of propaganda of violence and cruelty as well as the use of mass media for the purpose of committing illegal acts and other related offences, was also described.

12. Azerbaijan reiterated that fascism must not be allowed to rise. It stated that attempts to distort the history of the Second World War had to be stopped and that any related form of intolerance had to be strongly condemned.

13. The Government also provided information about alleged incidences of violent racism, intolerance and discrimination perpetrated by Armenia.

Belarus

14. Belarus describes itself as a State whose population has experienced the most dangerous forms and manifestations of Nazism and discriminatory attitudes. The Government made clear that it firmly condemned such behaviour and, with a view to preventing it, took the necessary measures to prevent, identify, suppress and punish the acts condemned under article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. According to the information submitted, State policy is based upon principles that promote political, social and cultural tolerance, and on international and national human rights standards.

15. The Government described the legislative framework in place to ensure equality before the law and regulate relations between social, national and other communities. According to the information provided, measures had been taken to ensure the preservation of historical, cultural and spiritual heritage and for the free development of the cultures of all national communities. According to the legal framework in place, everyone had the right to keep their national affiliation. "Insult to national dignity", discrimination on the basis of religion, direct and indirect discrimination against all minority groups and incitement to

hatred and violence on the grounds of belonging to a national, ethnic, religious or linguistic group were all prohibited.

16. Specific laws referenced by the Government included the Decree of the President of the Republic of Belarus, No. 575 of 09 November 2010, on approval of the concept of national security of Belarus; the Law on countering extremism; the Law on preventing the rehabilitation of Nazism; and the Law on the genocide of the Belarusian people.

17. A number of the laws laid out measures to prevent Nazism and discrimination, according to information provided by the Government. In addition, Belarus declared 2022 as the Year of Historical Memory in order to promote political, social and cultural tolerance and to prevent the recurrence of acts of Nazism, extremism and any form of discriminatory practice.

Honduras

18. Honduras provided information about a number of legislative measures to prevent and combat incitement to hatred and violence based on racial superiority aimed at persons or groups belonging to national, ethnic, religious and/or linguistic minorities. The measures included constitutional provisions to ensure the right to equality and the prohibition of discrimination, as well as provisions in the Criminal Code of 2020 that criminalize both discrimination and incitement to discrimination. The Government also described the public policy against racism and racial discrimination for the integral development of indigenous and Afro-Honduran people, adopted in 2016, and the public police and national action plan on human rights, which includes actions against discrimination.

19. According to the information provided, the Directorate for Education and Culture of Peace provides training for public servants that offers them an opportunity to reflect on their personal and professional responsibilities to address discrimination. Also according to the information provided, the training activities emphasize the importance of adopting behaviours aimed at preventing hate speech. In addition, the Government provided information about the inclusion in the Criminal Code of crimes relating to discrimination, allowing for more cases to be brought before the national courts, and about the need for relevant training among judicial officers.

20. The Government reported that 77 cases of discrimination had been registered, with cases against individuals of African descent being the most frequent. A significant proportion of registered cases were those in which the accused perpetrator was a public official. According to the information provided, of the 77 cases received, 10 were referred to the judiciary, 6 were dismissed, 1 is under analysis for administrative archiving purposes and the rest were in the process of investigation or stalled due to a lack of evidence.

21. Honduras also detailed measures taken to promote political, social and cultural tolerance and to prevent the promotion of hate speech and/or incitement to violence. Those measures included agreements with civil society organizations to promote the implementation of national and international human rights recommendations and build the capacity of rights holders and duty bearers; curricula on the prevention of discrimination within human rights education, which has focused on virtual education since the onset of the pandemic; and academic studies to better understand discrimination and related phenomena within the country. According to the information provided, human rights education activities to prevent discrimination have reached 11,075 public servants and 42,236 law enforcement officials. Activities included a virtual conference on the elimination of racial discrimination, as part of the commemoration of the International Day for the Elimination of Racial Discrimination.

Hungary

22. Hungary described a variety of legislative measures to prevent and combat Nazism, discrimination, intolerance, and racist and xenophobic violence. They included the criminalization of violence against a community or inciting such violence and public denial of the crimes of National Socialism or Communism. The information provided also described legal measures to increase the penalties for hate speech and placing insulting symbols; the Fundamental Law of 2011, which recognized the Hungarian Jewish community as an integral

part of society; and Government Decree No. 1039/2019, which promoted the application of the International Holocaust Remembrance Alliance's definition of antisemitism.

23. The Government also provided information about the establishment of institutional structures, including the Action and Protection League of Europe, to monitor and address antisemitic hate speech and hate crime. The Government also signalled its zero-tolerance policy towards antisemitism, the introduction in 2011 of mandatory Holocaust education in the national curriculum and the importance placed upon International Holocaust Remembrance Day in the country.

24. According to the information provided in respect of the prevalence of antisemitic hate crime and hate speech, in 2020 the Action and Protection League recorded 30 antisemitic incidents. One was categorized as a threat, 6 as vandalism and 22 as hate speech. During the period 2013–2020 there was an overall decrease in the number of antisemitic incidents.

Latvia

25. Latvia reported that the threat posed by right-wing extremism in the country generally remained low but that trends in the use of the Internet to disseminate related ideologies were of concern. The Government provided information about the legal framework in place to enshrine equality and non-discrimination, including constitutional provisions on equality and non-discrimination, and non-discrimination provisions in laws governing the labour market, health care, child protection, economic activities, education and criminal proceedings. In addition, the Government detailed laws in place to address hate speech and incitement to violence, including constitutional provisions stipulating that persons belonging to national minorities had the right to preserve and develop their language and ethnic and cultural identity, as well as provisions in the Criminal Law that criminalize relevant offences, such as violating the prohibition of discrimination, genocide, crimes against humanity, incitement to hatred and the triggering of hatred. Latvia also provided information about steps taken to strengthen its non-discrimination legal framework. For example, in 2021, the Criminal Law was amended to ensure that hatred on the basis of race, ethnicity and a range of other characteristics was an aggravating factor in all crimes.

26. The Government described a decree, adopted by the Ministry of the Interior, which established a working group to address procedural problems encountered when addressing hate crimes. The working group produced a report for the Minister of the Interior regarding improvements in data quality and measures to strengthen the legal framework and its practical application.

27. According to information provided, the State Police College has developed guidelines for the identification and investigation of hate crimes. The College has also developed several training programmes for police officers, which include content on hate crime. The State Police are also working on developing capacity to address online hate offences. Latvia also provided information about relevant training delivered to members of the national judiciary and about plans to implement further training for police and judiciary members on hate crimes.

28. The Government of Latvia provided information about complaints of discrimination and incitement of social hatred and enmity registered with the State Police. Between 2016 and 2020, a total of 121 applications were registered by the State Police. The majority were motivated by discrimination on the basis of ethnic or national origin. Within the same period, 111 applications were registered by the State Security Service related to genocide, invitation to genocide, and acquittal of genocide and crimes against humanity, and to the triggering of national, ethnic and racial hatred, the majority of which related to content posted on the Internet, according to the information provided.

29. When reporting the measures taken to promote political, social and cultural tolerance and prevent hate crime, Latvia signalled the National Identity, Civil Society and Integration Policy Implementation Plan 2019–2020; its membership in the Framework Convention for the Protection of National Minorities of the Council of Europe; and measures to uphold linguistic plurality within educational institutions and ensure the right of citizens to receive

education in their native language. The Government of Latvia also provided information about measures taken to reduce Roma exclusion and discrimination.

Luxembourg

30. The Ministry of Education, Children and Youth provided information about a range of initiatives to promote tolerance, awareness and non-discrimination through education. They included the integration of issues of antisemitism and tolerance in school curricula; activities in schools to mark Holocaust Remembrance Day; partnerships with civil society to help sensitize school children to Jewish culture; training for school children in online safety, which included content on hate speech; and free access for school children to an exhibition on the role of Nazi propaganda during the Second World War.

31. The Ministry also described its engagement in relevant meetings of such regional and international organizations as the Organisation for Economic Co-operation and Development, the International Holocaust Remembrance Alliance and the Council of Europe.

Mauritius

32. Mauritius described the legal framework in place to ensure the equal treatment of minority groups, including constitutional provisions guaranteeing protection from discrimination and ensuring religious freedom; relevant sections of the Criminal Code criminalizing a range of acts against persons, events and property of a religious nature; and offenses involving incitement to hatred. The Government also provided information about amendments made in 2018 to section 46 of the Information and Communication Technologies Act to address the malicious use of social media. According to the information provided, the amendments were designed to protect individuals from being victims of racial discrimination by means of hate speech, impersonation or other types of harassment carried out through various information and communication technologies. The Government also provided information about relevant provisions in the Equal Opportunities Act, the Truth and Justice Commission Act, the Judicial and Legal Provisions Act and the Protection of Human Rights Act.

33. The Government provided information about the role of the Independent Broadcasting Authority, created in 2001, in upholding and promoting the pluralistic nature of Mauritian culture. The Government also reported on the role of the Office of the Ombudsman, including in investigating complaints of discrimination.

34. Mauritius detailed measures taken to ensure equality and non-discrimination across a wide range of societal settings, including employment, housing, health, education, cultural activities and political participation.

35. In addition, the Government provided information about steps taken to preserve the cultural diversity of Mauritius within the education system through its formal curriculum and extracurricular activities, and to tackle bullying and hate speech within educational institutions. Measures to promote equal participation in cultural activities were also described. They included the provision of infrastructure for all religions and the maintenance of a variety of funds for the preservation of cultural heritage and the promotion of linguistic pluralism. Mauritius described the launch of the Intercontinental Slavery Museum in October 2020 with an inaugural exhibition entitled “Breaking the Silence”.

36. According to the information Mauritius provided about representation within its political system, the electoral system in Mauritius is based on a two-tiered electoral scheme. The first tier consists of the First-Past-the-Post system, whereby the three candidates receiving the highest number of votes from each of the 20 constituencies are elected to the unicameral National Assembly, making it an initial 60 directly elected members. The second tier is the Best Loser System, which is enshrined under the First Schedule of the Constitution and is designed to rebalance any disparities in the representation of minority groups.

Mexico

37. In respect of measures taken by the State to prevent and combat incidences and manifestations of racism, xenophobia and related intolerance, Mexico provided information about the multifaceted National Programme for Equality and Non-Discrimination 2021–2024, as overseen by the National Council for the Prevention of Discrimination. The programme was developed in accordance with the National Development Programme 2019–2024 and aims to promote human rights without discrimination in all sectors of society.

38. The Government noted provisions to combat hate speech in the Federal Law to Prevent and Eliminate Discrimination. The law grants powers to the National Council for the Prevention of Discrimination, including a mechanism to redress complaints of discrimination. The mechanism is empowered to pursue a number of forms of redress for victims of discrimination, including restitution of rights, compensation for damage caused, public reprimand, public or private apology and guarantee of non-repetition.

39. When reporting on lessons learned from measures taken to combat and eliminate all forms of racism, xenophobia and related intolerance, the Government of Mexico described challenges in determining the limits of freedom of expression on the basis of objective parameters; in preventing or sanctioning hate speech without prior censorship; and in determining whether hate speech was punishable according to its expression or only when there was evidence of harm. The Government also discussed the importance of upholding the principle of free, informed and prior consent to ensure that the rights of indigenous peoples in relation to equality and non-discrimination were upheld.

40. According to information provided by the Government about disaggregated data collection, annual human rights censuses are undertaken at the state and federal levels. They capture data on a wide range of pending, qualified and concluded complaint files relating to discrimination. There is, in addition, a national census that captures data on crimes, victims and defendants and/or accused persons registered in preliminary investigations and in files on investigations that have already been initiated. According to information provided, the Government of Mexico also conducts surveys on civic culture and discrimination.

41. The Government also detailed measures to promote political, social and cultural tolerance, including a guide for public action for xenophobia-free communication for the treatment of international migration in the media and on social networks; educational activities among students and teachers to raise awareness about migration; and continual training and awareness-raising activities among public officials.

Norway

42. In regard to measures adopted by the State to address discrimination, intolerance, racist and xenophobic violence, the Government of Norway provided information about the criminalization of hate speech and discrimination within the Penal Code, and about measures taken by the police to establish a national centre against hate crime and to collect data on such offences. The Government also provided information about the launch and implementation of a national strategy against hate crime, which was evaluated in 2020. The evaluation found that the strategy had contributed to continuity in efforts to address hate speech but that a clearer definition of hate speech was needed. Norway also provided information about national action plans against racism and discrimination on the grounds of ethnicity and religion; antisemitism; and discrimination and hatred towards Muslims.

43. The Government described efforts to address online harassment, including the appointment of a Freedom of Expression Commission, which would review the social, technological, legal and economic frameworks in place to govern freedom of expression in today's society.

44. The Government reported that, according to statistics provided by the National Police Directorate, 744 incidences of hate crimes were reported in 2020. Ethnicity was the most frequent basis for hate crime, with 67 per cent of such incidences being motivated by that form of discrimination and bias. Religion, particularly Islam, and sexual and gender identity were also reported as significant motivations for hate crimes. Norway reported that it is likely that such statistics did not represent the full extent of hate crime owing to underreporting by

victims. A survey undertaken in Norway in 2019 suggested that only one in five hate crimes were reported.

Russian Federation

45. The Russian Federation articulated its strong condemnation of all manifestations of racism, racial discrimination, xenophobia, Nazism and related intolerance and the continual steps taken to address such phenomena within the country. The Government provided information about the establishment, according to Presidential Decree, of the Strategy for State Ethnic Policy of the Russian Federation for the Period up to 2025, which aims to prevent and suppress attempts to incite racial, ethnic and religious intolerance, as well as the action plan for implementation.

46. The Government described systematic efforts to ensure the rights of citizens to receive education in their native language and to uphold linguistic plurality within educational institutions. Educational literature is offered in 35 native languages, and textbooks are available in 21 languages, according to the information provided.

47. The Russian Federation also provided information about efforts to support multiracial organization and movements, including facilitating sporting events to break down racial barriers. It offered examples of such sporting events, including those organized in the context of the 2022 World Cup qualifying match.

48. In addition, the Government detailed awareness-raising activities designed to harmonize inter-ethnic relationships and facilitate communication. According to the information provided, State television and radio channels give consistent attention to such issues.

49. The Russian Federation described relevant provisions in the Criminal Code to prosecute acts of neo-Nazism, extremism, the distribution of extremist materials, incitement and hate crimes. Russian law enforcement agencies continue working to identify extremist organizations and ban their activities, particularly organizations based on the ideas of National Socialism. Data provided from the Office of the Prosecutor General indicated that 280 crimes motivated by ethnic or racial hatred were investigated in 2021. A total of 2,300 persons were brought before the courts for the distribution of extremist materials and related offences, the majority of whom were investigated for the posting of Nazi symbols on the Internet. In all, in 2021, 5,600 violations of various laws on inter-ethnic relations were recorded.

50. The use of Internet forums for neo-Nazi activities is subject to regulation within the Russian Federation, including under its Law on the Mass Media, No. 2124-4. Government bodies, including the Federal Service for Supervision of Communications, Information Technology and Mass Media, are responsible for upholding these legal standards. The bodies are mandated to prevent the spread of extremist materials, as well as to intervene when extremist materials are found.

51. Prosecutorial and investigative services, including specialist units, in the Russian Federation are focused on responding to any glorification of Nazis and suppressing vandalism of monuments and memorials to Soviet soldiers killed during the “Great Patriotic War” (Second World War). The Office of the Prosecutor General is also working to prevent and combat the resurgence of Nazi organizations and the distortion of the history of the War, according to information provided. The Criminal Code contains provisions criminalizing the rehabilitation of Nazism; they were used in an emblematic case in which a Russian academic denied the facts of the Holocaust during a webinar.

52. The Government of the Russian Federation also provided information about investigations, including forensic analysis, into newly discovered burials of those thought to have been killed in the Great Patriotic War. In the context of such investigations, the Government has sought to expand cooperation with the authorities of foreign States. The Russian Military Historical Society has been active in efforts to investigate newly discovered burials. The group works to combat the glorification of Nazism and has undertaken projects to disseminate information about relevant historical events and memorialization activities.

Saudi Arabia

53. Saudi Arabia described the legal framework in place to prohibit racial discrimination and eradicate racism. According to the information provided, article (8) of the Basic Law of Governance prohibits any form of discrimination, exclusion, restriction or preference on the basis of race, colour, descent or national or ethnic origin resulting in disruption or obstruction of the recognition, enjoyment or exercise of human rights and fundamental freedoms. Saudi Arabia reported a wide range of legal provisions in place, in addition to the above-mentioned constitutional provisions. They include, inter alia, the Law of Printed Materials and Publication, which upholds freedom of expression, as long as it does not contravene the rights of others; the Audiovisual Media Law, which contains provisions banning incitement to violence; and the Labour Law, which outlines the equal right to work without any form of discrimination.

54. The Government also provided information about institutional measures taken to address racism and racial discrimination, including through the work of the Human Rights Commission of Saudi Arabia, which receives and investigates complaints of discrimination, and to monitor the implementation of national and international human rights standards. Additional institutional measures included the investigation of complaints of discrimination by the public prosecution services; the establishment of the Ideological Warfare Centre to combat the roots of extremism and terrorism; the promotion of tolerance and coexistence through the work of the King Abdulaziz Centre for National Dialogue; and the coordination of national work on racial discrimination by the National Society for Human Rights.

55. Saudi Arabia also described relevant projects and initiatives implemented at the national level. They include the SALAM Project for Cultural Communication, which aims to promote mutual understanding between different individuals; initiatives in educational institutions to address racism, including the inclusion of relevant content in curricula; and training, awareness and education activities of the Human Rights Commission, including providing training to members of the judiciary and the Public Prosecution as well as to law enforcement officers on the basis of the standards contained within the International Convention on the Elimination of All Forms of Racial Discrimination.

III. Submissions by civil society stakeholders

56. In the present section, the Special Rapporteur summarizes the submissions of civil society stakeholders on issues relating to Nazism and neo-Nazism. However, she emphasizes that by providing these summaries of civil society submissions, she does not endorse or confirm allegations levelled against specific actors.

Association of Reintegration of Crimea

57. The Association of Reintegration of Crimea reported systemic violations of human rights and humanitarian standards, including racial and ethnic discrimination against, inter alia, ethnic Crimean Tatars, in the Crimea region since 2014. The organization described the declaration of a “special military operation” by the Russian Federation on 24 February 2022, followed by an unprovoked invasion throughout Ukraine territory. The organization outlined how multiple justifications for this military aggression were used, including the need to “denazify Ukraine”. The Association described how, in conjunction with such justifications, the Government had been using hate speech against ethnic Ukrainians, as well as neo-Nazi symbols, including marking its troops and paramilitaries with the letter “Z”.

58. The Association described the “catastrophic harms” to Ukraine, including among its military and civilians, as a result of the above-mentioned aggression. It provided examples of such reported harm, including the death of civilians, kidnappings, illegal detention practices and attempts to create a food blockade. The organization reported mass displacements as a result of Russian military aggression. The organization also claimed that the Government of the Russian Federation was preparing to undertake the mass deportation of the Crimean Tatar population from the Autonomous Republic of Crimea.

NGO Monitor

59. NGO Monitor provided information about trends in antisemitism, including alleged examples of antisemitism within non-governmental organizations working on human rights and humanitarian issues, weak accountability for antisemitism and increasing violence against Jewish individuals over the past decade.

60. The organization provided examples of Governments that had put into place measures to address antisemitism, including guidelines for public funding and legislation. For example, they described how in June 2017, the Federal Assembly of Switzerland adopted a resolution to amend the laws, ordinances and regulations so that Switzerland could no longer subsidize, even indirectly, development cooperation projects carried out by non-governmental organizations involved in racism or incitement. NGO Monitor also reported that, according to the 2018 work plan of the Ministry of Foreign Affairs of the Netherlands, contracts signed between the Ministry and civil society organizations included funding guidelines that ensured the Netherlands did not finance organizations that promoted hate speech, racism or antisemitism of any sort or in any format.

Southern Poverty Law Center

61. The Southern Poverty Law Center provided information about the number of hate and extremist groups in the United States of America. It reported that in 2021, a total of 733 such groups were tracked by the organization, with general hate groups and white nationalist organizations being the most numerous. According to the information provided, the number of hate groups had decreased for the third year in a row from a historic high in 2018, but the change was due to the larger size and improved organization of the groups and their increased integration into mainstream politics, including within the Republican Party.

62. The Center provided information about linkages between the growth of the reactionary right-wing movement in 2021 and the powerful racial justice movement that mobilized in 2020. It pointed out that the movement had achieved widespread resonance and forced reckonings with the realities of anti-Black racism in the United States, but that it had sparked fear in the far right and had sustained counter-efforts to maintain and strengthen white supremacy. Parallels between this backlash against racial justice movements in 2020 and in other periods in history, including the reconstruction period and the civil rights era, were drawn by the organization.

63. The Center pointed out that extremist groups had been attracting more attention from law enforcement agencies and that civil lawsuits had been brought against such organizations, including the case of *Sines v. Kessler*,¹ a successful civil suit against the organizers of the 2017 Unite the Right rally in Charlottesville, Virginia. Despite such constraining forces, the Center noted that extremist groups were gaining influence in mainstream politics, including through social media. The organization described trends in the use of social media amongst hate groups. The poor moderation of content on mainstream social media sites and their unwillingness to remove extremist content and individuals were noted. The organization also described the increasing use of alternative technology platforms.

Additional input from civil society

64. Another civil society organization provided information about trends and manifestations of neo-Nazi far right movements in a number of countries in Europe. The organization described participation in the Lukov March by members of the Bulgarian National Union in Bulgaria, which takes place on an annual basis in Sofia. The organization reported the use of the swastika emblem during the march, and pointed out that the Bulgarian National Union is an organization with a paramilitary structure, whose members use military operations in their public actions. The organization indicated that there had been strong parliamentary condemnation of the Lukov March but that repeated difficulties were encountered in banning the event.

¹ United States District Court, W.D. Virginia, Charlottesville Division, *Elizabeth Sines, et al., Plaintiffs, v. Jason Kessler, et al., Defendants*, Civil Action 3:17-cv-00072, 22 September 2021.

65. The organization described trends of neo-Nazism in Croatia. It described how the “largest meeting of fascists in Europe” takes place annually in Bleiburg, Austria, and is attended by thousands of Croats, who commemorate the killing of tens of thousands of Utasha fighters in Bleiburg after the Second World War. The organization states that in November 2021 an expert group proposed a permanent ban on such gatherings in Bleiburg. The organization also described trends among young people in Croatia that included turning to right-wing extremism targeting ethnic and sexual minorities, migrants and women; the founding of the Homeland Movement (Domovinski pokret), a far-right party with anti-Serbian rhetoric, in February 2020; and support for old Nazi symbols among members of Parliament.

66. The organization described trends in neo-Nazism and far right movements in Serbia. They included the reported secret operation of the Otadžbina je ovo Srbina group, which had previously produced blogs with antisemitic content; the planning of a neo-Nazi music event; the activities of a neo-Nazi “hooligan group” supporting the Rad football club in Belgrade; and the reported presence in Serbia of a person who had been arrested for racial attacks in California.

67. In France, information was provided on an influencer who used antisemitic gifs and memes and had a significant following among young people on social media; the establishment of a far-right feminist group that espoused anti-immigration sentiments; the founding of the far-right political party, Reconquest, to support a 2022 presidential candidate who had been found guilty of inciting racial hatred; the use of a new antisemitic slogan “Mais Qui?”, associated with accusations that the Jewish community was responsible for the pandemic and vaccine policies; and the intensification of the activities of the Identitarians, a far-right movement originating in France.

68. The organization described a number of trends in Hungary, including political developments that had seen the lack of a central actor within the far-right movements after the weakening of the Jobbik party; the use of anti-Semitic rhetoric by Our Homeland Party, who were trying to position themselves within the far right; an increase in the number of active far-right and neo-Nazi organizations in the country; the continuation of marches, rallies and hiking tours organized by far right groups; symbolic attacks against public statues, including one that honoured the Black Lives Matter movement; and physical violence and hate speech against such groups as Roma and refugees.

69. In Germany, the organization signalled the activities of Der III Weg (Third Path), a far right, ultranationalist political party; the prosecution of four former members of Europäische Aktion (European Action) for violating legal provisions in place to punish the re-founding of a National Socialist Party; the intensification of surveillance of Patriotic Europeans Against the Islamization of the Occident (PEDIGA) by the intelligence services, owing to the extremist and anti-constitutional nature of their activities; the high levels of activism by Die Rechte, a far-right political party; and the increasing level of right-wing racist violence.

70. The organization also reported on the activities of a range of far-right movements and associations in Poland, including Rodacy Kamraci, National Rebirth of Poland, All-Polish Youth, Szturmowcy and the National Radical Camp.

IV. Applicable legal framework

71. The Special Rapporteur recalls that international human rights law is based on the premise that all persons, by virtue of their humanity, should enjoy all human rights without discrimination on any grounds. Article 1 (1) of the International Convention on the Elimination of All Forms of Racial Discrimination defines racial discrimination. The Special Rapporteur reiterates that the prohibition on racial discrimination is aimed at guaranteeing substantive equality as well as formal provisions of equality. States must take action to combat intentional or purposeful racial discrimination, as well as de facto or unintentional racial discrimination. She reminds States that they cannot derogate from their obligations to uphold the *jus cogens* prohibition of racial discrimination in international law, even in times of public emergency.

72. Both the Convention and the International Covenant on Civil and Political Rights impose strict limitations on the propagation of racist and xenophobic ideas, and outlaw the advocacy of national, racial or religious prejudices that amount to incitement to discrimination, hostility or violence. Speech that constitutes advocacy of antisemitic, racial and religious prejudices amounting to incitement to discrimination, hostility or violence is thus unlawful and prohibited under the applicable legal frameworks. The Special Rapporteur also recalls that under article 20 of the Covenant, any forms of propaganda for war shall be prohibited by States parties.

73. The Special Rapporteur recalls that in accordance with article 2 (1) of the Convention, States parties are not to sponsor, defend or support racial discrimination by any persons or organizations, including those espousing racial superiority and intolerance. In accordance with article 4 of the Convention, States parties are to condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form. This means that States parties must take action to prohibit organizations that meet the conditions articulated in article 4 (b), including in contexts in which such organizations use antisemitic fervour to attempt to mainstream their extreme ideologies or racial, ethnic or religious hatred and intolerance. Legislation alone is not sufficient. Article 6 of the Convention makes clear that effective protection from and remedies for racial discrimination are just as important as formal provisions.

74. Article 4 of the Convention also requires States parties to undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination, and to make punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin. In its general recommendation No. 35 (2013) on combating racist speech, The Committee on the Elimination of Racial Discrimination issued concrete guidance for States parties on the adoption of legislation combating racist speech falling under article 4. To benefit from that guidance, the Special Rapporteur encourages States to review the recommendation, in which the Committee recalls that the proscription of racist hate speech and the flourishing of freedom of expression should be seen as complementary, and that the rights to equality and freedom from discrimination, and the right to freedom of expression, should be fully reflected in law, policy and practice as mutually supportive human rights.

75. Article 19 of the Covenant protects freedom of opinion and of expression. Any restriction on freedom of speech must be not only a matter of necessity, but also proportionate to achieving the legitimate end that warrants the restriction. Article 20 of the Covenant states specifically that States parties shall prohibit, by law, any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. The Human Rights Committee and a number of other human rights mechanisms have interpreted this provision as creating a high threshold, as limitations on speech must remain exceptional. When individuals or groups meet this high threshold, including in the context of antisemitic hate speech, States must hold those actors to account for their violations of international human rights law.

76. The Committee on the Elimination of Racial Discrimination has reiterated that freedom of expression is integrated into the Convention, and that the Convention contributes to a fuller understanding of the parameters of freedom of expression under international human rights law. For determining what racist expression should be punishable by law, the Committee stresses the importance of context, which includes: (a) the content and form of the speech; (b) the economic, social and political climate; (c) the position or status of the speaker; (d) the reach of the speech; and (e) the objectives of the speech. Member States, and even such private actors as the technology companies that often directly interface with racist and xenophobic content online, must remain vigilant in their identification of racist expression in national climates in which certain groups, including neo-Nazis, are openly committed to spreading and enforcing intolerance. The Committee warns that racist speech may sometimes rely on indirect language to disguise its targets or objectives and on coded symbolic communication to achieve its ends. Even incitement may be express or implied,

through such actions as displays of racist symbols or the distribution of materials in addition to words.

77. Member States must take urgent action to ensure that racist expressions violating the standards set out in the Convention are made punishable by law. The Committee on the Elimination of Racial Discrimination has recommended that the criminalization of forms of racist expression be reserved for serious cases, to be proven beyond reasonable doubt; that the application of criminal sanctions be governed by the principles of legality, proportionality and necessity; and that less serious cases be dealt with using non-criminal sanctions.

78. The Special Rapporteur also recalls that in 2001, participants in the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance adopted the Durban Declaration, in which they condemned, in paragraph 84, the persistence and resurgence of neo-Nazism, neo-Fascism and violent nationalist ideologies based on racial or national prejudice. In paragraph 85 of the Declaration, they condemned political platforms and organizations based on, among other things, doctrines of racial superiority and related discrimination, as well as legislation and practices based on racism, racial discrimination, xenophobia and related intolerance, stating that they were incompatible with democracy and transparent and accountable governance. The participants also reaffirmed, in paragraph 94 of the Declaration, that the stigmatization of people of different origins by acts or omissions of public authorities, institutions, the media, political parties or national or local organizations was not only an act of racial discrimination but could also incite the recurrence of such acts, thereby resulting in the creation of a vicious circle that reinforced racist attitudes and prejudices and required universal condemnation.

V. Conclusions and recommendations

79. **The Special Rapporteur urges States to comply fully with their obligations as enshrined in article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, and reiterates her encouragement to those States that have entered reservations to article 4 of the Convention to withdraw those reservations and commit to the obligation to tackle hate speech and incitement to violence.**

80. **The Special Rapporteur recommends that States Members of the United Nations draw upon relevant guidance, including general recommendation No. 35 (2013) of the Committee on the Elimination of Racial Discrimination and the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, to effectively balance the regulation of hate speech and the right of freedom of expression within relevant legislative and policy frameworks.**

81. **The Special Rapporteur also urges States to take concrete actions to ensure the full and effective implementation and dissemination of the Durban Declaration and Programme of Action.**

82. **She reiterates her recommendation that Member States should implement the concrete recommendations that other United Nations bodies, especially the Committee on the Elimination of Racial Discrimination, have made pertaining to combating racist and xenophobic expression.**

83. **The Special Rapporteur would like to stress the importance of collecting, analysing and disseminating reliable disaggregated data and statistics on racist and xenophobic crimes. The collection of data on the ideological affiliations of perpetrators, as well as the identity of victims, in cases involving suspected or alleged hate crimes is vital for understanding the prevalence of hate incidents and for designing measures to combat them. Data are also vital for monitoring racist crimes and assessing the impacts of measures taken to address such crimes. A lack of consistent and reliable reporting on antisemitic violence and other hate incidents is a widespread issue, and official statistics are often much lower than those reported by non-governmental organizations, which allow direct reporting on the Internet. The discrepancy between official data and unreported incidents reveals the need for more comprehensive, accessible, safe and**

dependable networks for reporting antisemitic violence. Civil society must continue to strengthen its role in collecting data and working with victims, who may not feel safe reporting incidents to authorities.

84. The Special Rapporteur highlights the need to develop and implement effective, inclusive and comprehensive frameworks complemented by other means to combat racism. In that regard, collaboration with civil society and international, regional and national human rights mechanisms can reinforce the efforts to counter antisemitism and extremist movements and groups, including neo-Nazis. In particular, civil society can play a vital role in collecting information on racist crimes, working with victims and raising awareness. The Special Rapporteur encourages robust coordination between governmental structures and civil society entities to amplify efforts to develop and implement relevant legislation and policies.

85. Member States must take urgent and active measures to promote tolerance and understanding of international human rights principles in educational, cultural and social contexts, and ensure that educational systems develop the content necessary to promote truthful accounts of the past, including in respect of the horrors of the Second World War.
