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## THE LAWS BANNING HOLOCAUST DENIAL

GPN Original

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### I. INTRODUCTION

*A survey of the sixteen countries that have enacted laws that either directly criminalize Holocaust denial or can be used to prosecute individuals who deny the Holocaust: Austria, Belgium, the Czech Republic, France, Germany, Hungary, Israel, Liechtenstein, Lithuania, Luxembourg, Poland, Portugal, Romania, Slovakia, and Switzerland.*

Presently, sixteen countries have enacted laws that either directly criminalize Holocaust denial or can be used to prosecute individuals who deny the Holocaust. Austria, Belgium, the Czech Republic, France, Germany, Hungary, Israel, Liechtenstein, Lithuania, Luxembourg, Poland, Portugal, Romania, Slovakia<sup>1</sup>, and Switzerland have instituted such laws.<sup>2</sup>

In addition, the courts in The Netherlands often consider Holocaust denial a form of spreading hatred, which is a punishable offense.<sup>3</sup>

### II. DISCUSSION

#### A. Laws that explicitly ban Holocaust denial

##### **Austria**

The Verbotsgesetz 1945 (The Prohibition Act 1945) is an Austrian constitutional law that provided the legal framework for denazification and aimed to suppress any potential of revival of Nazism in Austria. Yet the law did not clearly state that Holocaust denial was a Nazi activity, although the Austrian courts interpreted the act in this way. Because it was becoming more and more difficult to apply the law to neo-Nazi endeavors, particularly when “revisionism” became part and parcel of the neo-Nazi message, the law was finally amended in February of 1992. Among the changes to the law was a section that explicitly bans the denial or gross minimization of Nazi genocide or other Nazi crimes against humanity, thus making it easier to address Nazi propaganda and historical “revisionism.”<sup>4</sup> The text of this law is as follows:

### **National Socialism Prohibition Law (1945, Amendments of 1992)**

§3g. He who operates in a manner characterized other than that in § § 3a – 3f will be punished (revitalizing of the NSDAP or identification with), with imprisonment from one to up to ten years, and in cases of particularly dangerous suspects or activity, be punished with up to twenty years imprisonment.<sup>5</sup>

§3h. As an amendment to § 3 g., whoever denies, grossly plays down, approves or tries to excuse the National Socialist genocide or other National Socialist crimes against humanity in a print publication, in broadcast or other media.<sup>6</sup>

### **Belgium**

The Holocaust denial law in Belgium was passed on March 23, 1995. This law makes it a crime to deny, grossly minimize, attempt to justify, or approve of the genocide committed by the Nazis during WWII. The offense is punishable by imprisonment of up to one year and a fine of up to 124 EUR, and prosecution is carried out by the Belgian Centre for Equal Opportunities.<sup>7</sup>

### **Negationism Law (1995, Amendments of 1999)**

Art. 1 Whoever, in the circumstances given in article 444 of the Penal Code denies, grossly minimizes, attempts to justify, or approves the genocide committed by the German National Socialist Regime during the Second World War shall be punished by a prison sentence of eight days to one year, and by a fine of twenty six francs to five thousand francs. For the application of the previous paragraph, the term genocide is meant in the sense of article 2 of the International Treaty of 9 December 1948 on preventing and combating genocide. In the event of repetitions, the guilty party may in addition have his civic rights suspended in accordance with article 33 of the Penal Code.

Art.2 In the event of a conviction on account of a violation under this Act, it may be ordered that the judgment, in its entity or an excerpt of it, is published in one of more newspapers, and is displayed, to the charge of the guilty party.

Art.3. Chapter VII of the First Book of the Penal Code and Article 85 of the same Code are also applicable to this Act.

Art. 4. The Centre for Equal Opportunities and Opposition to Racism, as well as any association that at the time of the facts had a legal personality for at least five years, and which, on the grounds

of its statutes, has the objective of defending moral interests and the honor of the resistance or the deported, may act in law in all legal disputes arising from the application of this Act.<sup>8</sup>

### **Czech Republic**

The Czech Republic has made denial of the Holocaust as well as negationism of communist atrocities illegal.

#### **Law Against Support and Dissemination of Movements Oppressing Human Rights and Freedoms (2001)**

§ 260 (1) The person who supports or spreads movements oppressing human rights and freedoms or declares national, race, religious or class hatred or hatred against other group of persons will be punished by prison from 1 to 5 years. (2) The person will be imprisoned from 3 to 8 years if: a) he/she commits the crime mentioned in paragraph (1) in print, film, radio, television or other similarly effective manner, b) he/she commits the crime as a member of an organized group c) he/she commits the crime in a state of national emergency or state of war

§ 261 The person who publicly declares sympathies with such a movement mentioned in § 260, will be punished by prison from 6 months to 3 years.

§ 261a The person who publicly denies, puts in doubt, approves or tries to justify Nazi or communist genocide or other crimes of Nazis or communists will be punished by prison of 6 months to 3 years.<sup>9</sup>

### **France**

The Gayssot Act was passed in France on July 13, 1990. The Act criminalizes questioning the existence of crimes of humanity as defined in the Charter of the International Military Tribunal, which was used at Nuremberg in 1945 to 1946 to convict Nazi leaders.<sup>10</sup> Robert Faurisson, an infamous Holocaust denier, challenged the Act but the Human Rights Commission upheld it as a necessary means to counter possible antisemitism.<sup>11</sup>

#### **Law No. 90-615 to repress acts of racism, anti-Semitism and xenophobia (1990)**

Art 9. – As an amendment to Article 24 of the law of July 29, 1881 on the freedom of the press, article 24 (a) is as follows written: Art. 24 (a). - those who have disputed the existence of one or more crimes against humanity such as they are defined by Article 6 of the statute of the international tribunal military annexed in the

agreement of London of August 8, 1945 and which were carried out either by the members of an organization declared criminal pursuant to Article 9 of the aforementioned statute, or by a person found guilty of such crimes by a French or international jurisdiction shall be punished by one month to one year imprisonment or a fine.

Art 13. - It is inserted, after article 48-1 of the law of July 29, 1881 on the freedom of the press, article 48-2 thus written: Art. 48-2. - publication or publicly expressed opinion encouraging those to whom it is addressed to pass a favorable moral judgment on one or more crimes against humanity and tending to justify these crimes (including collaboration) or vindicate their perpetrators shall be punished by one to five years imprisonment or a fine.<sup>12</sup>

## **Germany**

*Volkserhetzung* ("incitement of the people") is a concept under German criminal law that prohibits the incitement of hatred against a particular group of people.

### **§130 Public Incitement (1985, Revised 1992, 2002, 2005)**

(1) Whoever, in a manner that is capable of disturbing the public peace:

1. incites hatred against segments of the population or calls for violent or arbitrary measures against them; or  
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.

(3) Whoever publicly or in a meeting approves of, denies or belittles an act committed under the rule of National Socialism of the type indicated in Section 6 subsection (1) of the Code of Crimes against International Law, in a manner capable of disturbing the public peace shall be punished with imprisonment for not more than five years or a fine.

(4) Whoever publicly or in a meeting disturbs the public peace in a manner that assaults the human dignity of the victims by approving of, denying or rendering harmless the violent and arbitrary National Socialist rule shall be punished with imprisonment for not more than three years or a fine.<sup>13</sup>

Section 3 above refers to the following crimes:

## **§ 6 Genocide**

(1) Whoever with the intent of destroying as such, in whole or in part, a national, racial, religious or ethnic group:

1. kills a member of the group,
  2. causes serious bodily or mental harm to a member of the group, especially of the kind referred to in section 226 of the Criminal Code,
  3. inflicts on the group conditions of life calculated to bring about their physical destruction in whole or in part,
  4. imposes measures intended to prevent births within the group,
  5. forcibly transfers a child of the group to another group,
- shall be punished with imprisonment for life.<sup>14</sup>

### **Hungary**

In 1992, The Hungarian Constitutional Court struck down an existing law against Holocaust denial on the grounds that criminalizing it was incompatible with the right to free speech.<sup>15</sup> However, on February 22, 2010, the Hungarian Parliament again passed legislation that criminalizes the minimization or denial of the Holocaust, and President Laszlo Solyom signed the bill into law on March 3, 2010. According to a spokesperson, the current President does not believe that this legislation contravenes the Hungarian constitutional right to free speech.<sup>16</sup> The reform was passed with a 197-1 vote, with 142 abstentions. The new law will come into effect in early April. The text reads:

Those who publicly hurt the dignity of a victim of the Holocaust by denying or questioning the Holocaust itself, or claim it insignificant, infringe the law and can be punished by prison sentence of up to three years.<sup>17</sup>

### **Israel**

The Knesset (the Supreme Court in Israel) passed a law to criminalize the denial of the Holocaust on July 8, 1986.

#### **Denial of Holocaust (Prohibition) Law, 5746-1986**

##### *Definitions*

1. In this Law, "crime against the Jewish people" and "crime against humanity" have the same respective meanings as in the "Nazis and Nazi Collaborators Law, 5710-1950.

##### *Prohibition of Denial of Holocaust*

2. A person who, in writing or by word of mouth, publishes any statement denying or diminishing the proportions of acts committed in the period of the Nazi regime, which are crimes against the Jewish people or crimes against humanity, with intent to defend the

perpetrators of those acts or to express sympathy or identification with them, shall be liable to imprisonment for a term of five years.

*Prohibition of publication of expression for sympathy for Nazi crimes*

3. A person who, in writing or by word of mouth, publishes any statement expressing praise or sympathy for or identification with acts done in the period of the Nazi regime, which are crimes against the Jewish people or crimes against humanity, shall be liable to imprisonment for a term of five years.

*Permitted publication*

4. The publication of a correct and fair report of a publication prohibited by this Law shall not be regarded as an offence thereunder so long as it is not made with intent to express sympathy or identification with the perpetrators of crimes against the Jewish people or against humanity.

*Filing of charge*

5. An indictment for offences under this Law shall only be filed by or with the consent of the Attorney-General.<sup>18</sup>

## **Luxembourg**

Article 457-3 of the Criminal Code, Act of 19 July 1997 outlaws Holocaust denial in addition to the denial of other genocides. Punishment for violating this Act is imprisonment up to 6 months and/or a fine. The offense of “negationism and revisionism” applies to

...anyone who has contested, minimized, justified or denied the existence of war crimes or crimes against humanity as defined in the statutes of the International Military Tribunal of 8 August 1945 or the existence of a genocide as defined by the Act of 8 August 1985. A complaint must be lodged by the person against whom the offence was committed (victim or association) in order for proceedings to be brought, Article 450 of the Criminal Code, Act of 19 July 1997.<sup>19</sup>

## **Poland**

Poland criminalizes both Holocaust denial and the denial of crimes perpetrated by communists.

### **Act of 18 December 1998 on the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation**

#### Article 55

He who publicly and contrary to facts contradicts the crimes mentioned in Article 1, clause 1 shall be subject to a fine or a penalty of deprivation of liberty of up to three years. The judgment shall be made publicly known.

#### Article 1

This Act shall govern:

1. the registration, collection, access, management and use of the documents of the organs of state security created and collected between 22 July 1944 and 31 December 1989, and the documents of the organs of security of the Third Reich and the Union of Soviet Socialist Republics concerning:

a) crimes perpetrated against persons of Polish nationality and Polish citizens of other ethnicity, nationalities in the period between 1 September 1939 and 31 December 1989:

- Nazi crimes,
- communist crimes,
- other crimes constituting crimes against peace, crimes against humanity or war crimes

b) other politically motivated repressive measures committed by functionaries of Polish prosecution bodies or the judiciary or persons acting upon their orders, and disclosed in the content of the rulings given pursuant to the Act of 23 February 1991 on the Acknowledgement as Null and Void Decisions Delivered on Persons Repressed for Activities for the Benefit of the Independent Polish State (Journal of Laws of 1993 No. 34, item 149, of 1995 No. 36, item 159, No. 28, item 143, and of 1998 No. 97, item 604),

2. the rules of procedure as regards the prosecution of crimes specified in point 1 letter a),

3. the protection of the personal data of grieved parties, and

4. the conduct of activities as regards public education.<sup>20</sup>

#### **Romania**

Romania proposed an Emergency Ordinance on March 13, 2002 to prohibit Holocaust denial. The law was ratified on May 6, 2006, and also bans racist, fascist, xenophobic symbols, uniforms and gestures. Violations are punishable by up to five years in prison.

## **Emergency Ordinance No. 31 of March 13, 2002**

Article 3. – (1) Establishing a fascist, racist or xenophobic organization is punishable by imprisonment from 5 to 15 years and the loss of certain rights.

Article 4. – (1) The dissemination, sale or manufacture of symbols either fascist, racist or xenophobic, and possession of such symbols is punished with imprisonment from 6 months to 5 years and the loss of certain rights.

Article 5. – Promoting the culture of persons guilty of committing a crime against peace and humanity or promoting fascist, racist or xenophobic ideology, through propaganda, committed by any means, in public, is punishable by imprisonment from 6 months to 5 years and the loss of certain rights.

Article 6. – Denial of the Holocaust in public, or to the effects thereof is punishable by imprisonment from 6 months to 5 years and the loss of certain rights.<sup>21</sup>

## **B. Laws that prohibit genocide denial generally**

Several countries do not ban Holocaust denial specifically but instead have passed legislation criminalizing the denial of any genocide, which clearly can be enforced against Holocaust deniers as well.

### **Liechtenstein**

Liechtenstein's criminal code prohibits the denial of genocide:

#### **§ 283 Race discrimination**

5. Whoever publicly denies, coarsely trivializes, or tries to justify genocide or other crimes against humanity via word, writing, pictures, electronically transmitted signs, gestures, violent acts or by other means shall be punished with imprisonment for up to two years.<sup>22</sup>

### **Portugal**

#### **Article 240: Religious, racial, or sexual discrimination**

2 - Whoever in a public meeting, in writing intended for dissemination, or by any means of media:



a) incites violence against an individual or group of individuals because of race, color, ethnic or national origin or religion, or

b) defames or slanders an individual or group of individuals because of race, color, ethnic or national origin or religion, particularly through the denial of war crimes or against peace and humanity;

with intent to encourage or incite to racial or religious discrimination, shall be punished with imprisonment from 6 months to 5 years.<sup>23</sup>

### **Switzerland**

The denial of genocide and other crimes against humanity is an imprisonable offense under Swiss law.

#### **SR 311.0 Swiss Penal Code, Article 261 Racial Discrimination**

Whoever publicly, by word, writing, image, gesture, acts of violence or any other manner, demeans or discriminates against an individual or a group of individuals because of their race, their ethnicity or their religion in a way which undermines human dignity, or on those bases, denies, coarsely minimizes or seeks to justify a genocide or other crimes against humanity ... shall be punished with up to three years imprisonment or a fine.<sup>24</sup>

### **C. Rejections of laws criminalizing Holocaust denial**

Because of the First Amendment's guarantee of free speech, Holocaust denial has not been criminalized in the United States. Freedom of expression is also a cornerstone of British society, therefore Holocaust denial has not been prohibited in the United Kingdom either.<sup>25</sup> Italy approved a draft law that imposes jail terms for racially motivated crimes, but does not go so far as to prohibit Holocaust denial specifically, although this was Justice Minister Mastella's initial aim.<sup>26</sup> Italy has also rejected measures proposed by the European Union to impose EU-wide bans on Holocaust denial, on the basis of protecting freedom of speech.<sup>27</sup> In Bosnia and Herzegovina, a Bosniak member of the Parliament proposed a draft law in 2007 to criminalize Holocaust denial and the denial of genocide and other crimes against humanity. However, Bosnian Serb MPs have been repeatedly opposed to such legislation. There is concern that such a law might be used as a weapon against their community. As one delegate explains, "[w]ar crimes are a sensitive issue in Bosnia and Herzegovina. I am not sure this law would actually lead to reconciliation and justice fulfillment." He continues on to say that Bosnian

Serbs “consider that [the law’s] adoption would cause disagreement and even animosity.”<sup>28</sup>

Several countries formally banned Holocaust denial in the past but the denial has since been decriminalized. As discussed, the Hungarian Constitutional Court formerly struck down a law against Holocaust denial in 1992 on the grounds that doing so was incompatible with the right to free speech.<sup>29</sup> Spain banned genocide denial in general until the Constitutional Court of Spain ruled that prohibiting denial was unconstitutional. Thus, as of November 7, 2007, Holocaust *denial* is legal, but *justification* of the Holocaust (or any other genocide, for that matter) is still an imprisonable offense.<sup>30</sup>

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*Currently, Jackie is continuing her work in the field of Holocaust and genocide law by working for Professors Bazylar and Goldman as a research assistant. She is working on a book chapter about the kapo trials, as well as a piece on societal reactions to the Nuremberg trials. While very passionate about genocide prevention, Jackie is also a lover of art and has translated that interest into pursuing fashion law. Though vastly different fields of study, she hopes to find a way to reconcile these passions and ultimately make a meaningful contribution to society. She will graduate from Loyola Law School in May 2011.*

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<sup>i</sup> Despite a Wikipedia entry which states that Slovakia repealed its laws prohibiting Holocaust denial in 2005, a Jerusalem Post article explains that Slovak lawmakers rejected a government proposal to decriminalize Holocaust denial. Denial is currently punishable by up to three years in prison. *Slovaks keep Holocaust denial a crime*, Feb. 9, 2005, abstract available at <http://pqasb.pqarchiver.com/jpost/access/791232191.html?dids=791232191:791232191&FMT=ABS&FMTS=ABS:FT&date=Feb+9%2C+2005&author=AP&pub=Jerusalem+Post&edition=&startpage=06&desc=Slovaks+keep+Holocaust+denial+a+crime> (last visited Nov. 29, 2009).

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- <sup>2</sup> WIKIPEDIA, *Holocaust denial*, §7 Laws against Holocaust denial, [http://en.wikipedia.org/wiki/Holocaust\\_denial#Laws\\_against\\_Holocaust\\_denial](http://en.wikipedia.org/wiki/Holocaust_denial#Laws_against_Holocaust_denial) (last visited Nov. 24, 2009); Wikipedia, *Laws against Holocaust denial*, [http://en.wikipedia.org/wiki/Laws\\_against\\_Holocaust\\_denial](http://en.wikipedia.org/wiki/Laws_against_Holocaust_denial) (last visited Nov. 24, 2009); Raffi Berg, *The fight against Holocaust denial*, BBC NEWS, April 14, 2005, available at <http://news.bbc.co.uk/2/hi/europe/4436275.stm>.
- <sup>3</sup> *Denying holocaust 'not a crime': VVD*, DUTCHNEWS.NL, May 27, 2009, [http://www.dutchnews.nl/news/archives/2009/05/denying\\_holocaust\\_not\\_a\\_crime.php](http://www.dutchnews.nl/news/archives/2009/05/denying_holocaust_not_a_crime.php).
- <sup>4</sup> Brigitte Bailer-Galanda, *Revisionism' in Germany and Austria: The Evolution of a Doctrine*, in ANTISEMITISM AND XENOPHOBIA IN GERMANY AFTER UNIFICATION 174, 188 (Hermann Kurthen et al. eds., 1997).
- <sup>5</sup> Austrian Research Centre for Post-War Trials, Prohibition Act 1945 in the text of the NSG 1947, [http://www.nachkriegsjustiz.at/service/gesetze/gv\\_3\\_1947.php](http://www.nachkriegsjustiz.at/service/gesetze/gv_3_1947.php) (last visited Nov. 27, 2009).
- <sup>6</sup> Austrian Research Centre for Post-War Trials, Constitution of 8 May 1945 on the prohibition of the NSDAP (Prohibition Act 1947) as amended by the Prohibition amendment to 1992, [http://www.nachkriegsjustiz.at/service/gesetze/gv\\_3\\_1992.php](http://www.nachkriegsjustiz.at/service/gesetze/gv_3_1992.php) (last visited Nov. 27, 2009).
- <sup>7</sup> The text of the law sets the maximum fine at 5,000 francs, which converts to 123.95 euros.
- <sup>8</sup> Act of 23 March, 1995 on punishing the denial, minimization, justification or approval of the genocide perpetrated by the German National Socialist Regime during the Second World War, available at [http://www.juridat.be/cgi\\_loi/loi\\_N.pl?cn=1995032331](http://www.juridat.be/cgi_loi/loi_N.pl?cn=1995032331) (last visited Nov. 27, 2009).
- <sup>9</sup> WIKIPEDIA, *Laws against Holocaust denial*, §2.4 Czech Republic, [http://en.wikipedia.org/wiki/Laws\\_against\\_Holocaust\\_denial#Czech\\_Republic](http://en.wikipedia.org/wiki/Laws_against_Holocaust_denial#Czech_Republic) (last visited Nov. 24, 2009).
- <sup>10</sup> Charter of the International Military Tribunal, 1945, available at <http://avalon.law.yale.edu/imt/imtconst.asp> (last visited Nov. 25, 2009); WIKIPEDIA, *Laws against Holocaust denial*, §2.5 France, [http://en.wikipedia.org/wiki/Laws\\_against\\_Holocaust\\_denial#France](http://en.wikipedia.org/wiki/Laws_against_Holocaust_denial#France) (last visited Nov. 24, 2009).
- <sup>11</sup> U.N. Int'l Covenant on Civil and Political Rights [CCPR], Human Rights Committee, 58th Session, Dec. 16, 1996, *Communication No 550/1993: France*, CCPR/C/58/D/550/1993, available at <http://www.unhchr.ch/tbs/doc.nsf/385c2add1632f4a8c12565a9004dc311/4c47b59ea48f7343802566f200352fea?OpenDocument> (last visited November 25, 2009).
- <sup>12</sup> "Loi n°90-615 du 13 juillet 1990 tendant à réprimer tout acte raciste, antisémite ou xénophobe [Law No. 90-615 to repress acts of racism, anti-Semitism and xenophobia], Légifrance, (1990), available at <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000532990&dateTexte=> (last visited Nov. 25, 2009).
- <sup>13</sup> §130 Volksverhetzung [Public Incitement], Bundesministerium der Justiz [BMJ] [Federal Ministry of Justice], available at [http://bundesrecht.juris.de/stgb/\\_130.html](http://bundesrecht.juris.de/stgb/_130.html) (last visited Nov. 25, 2009).
- <sup>14</sup> §6 Völkermord [Genocide], Bundesministerium der Justiz [BMJ] [Federal Ministry of Justice]. available at [http://bundesrecht.juris.de/vstgb/\\_6.html](http://bundesrecht.juris.de/vstgb/_6.html) (last visited Nov. 25, 2009).
- <sup>15</sup> *Decision 30/1992 (V.26)*, The Constitutional Court of the Republic of Hungary, available at [http://www.mkab.hu/content/en/en3/30\\_1992.pdf](http://www.mkab.hu/content/en/en3/30_1992.pdf) (last visited Nov. 29, 2009).

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<sup>16</sup> *Holocaust Deniers Face Jail Under New Hungarian Law*, March 10, 2010, available at <http://www.haaretz.com/hasen/spages/1155493.html>.

<sup>17</sup> Benjamin Weinthal, *Hungary Passes Landmark Holocaust Denial Law*, Mar. 19, 2010, available at <http://www.jpost.com/International/Article.aspx?id=171333>. The new law in its entirety will be available on the Hungarian Parliament's website shortly. The English translation is available at [http://translate.google.com/translate?js=y&prev=\\_t&hl=en&ie=UTF-8&layout=1&eotf=1&u=http://www.parlament.hu/&sl=hu&tl=en](http://translate.google.com/translate?js=y&prev=_t&hl=en&ie=UTF-8&layout=1&eotf=1&u=http://www.parlament.hu/&sl=hu&tl=en).

<sup>18</sup> Denial of Holocaust -Prohibition- Law- 5746-1986-, Israel Ministry of Foreign Affairs, available at <http://www.mfa.gov.il/MFA/Anti-Semitism+and+the+Holocaust/Documents+and+communiqués/Denial+of+Holocaust+-+Prohibition+-+Law-+5746-1986-.html> (last visited Nov. 25, 2009).

<sup>19</sup> LUXEMBOURG – National Legal Measures, Council of Europe, available at [http://www.coe.int/t/dghl/monitoring/ecri/legal\\_research/national\\_legal\\_measures/luxembourg/luxembourg%20sr\\_EN.asp](http://www.coe.int/t/dghl/monitoring/ecri/legal_research/national_legal_measures/luxembourg/luxembourg%20sr_EN.asp) (last visited Nov. 26, 2009).

<sup>20</sup> Ustawa z dnia 18 grudnia 1998 r. o Instytucie Pamięci Narodowej - Komisji Ścigania Zbrodni przeciwko Narodowi Polskiemu [Act of 18 December 1998 on the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation], Sejm of the Republic of Poland [Polish Parliament], available at <http://isip.sejm.gov.pl/servlet/Search?todo=open&id=WDU19981551016> (last visited Nov. 26, 2009).

<sup>21</sup> ORDONANTA DE URGENTA nr. 31 din 13 martie 2002 [Emergency Ordinance No. 31 of March 13, 2002], Romanian Government Department for Interethnic Relations, available at <http://www.dri.gov.ro/documents/oug%2031-2002.pdf> (last visited Nov. 26, 2009).

<sup>22</sup> Rassendiskriminierung [Racial Discrimination], LLV Government Portal, available at <http://www.gesetze.li/Seite1.jsp?LGBIm=1988037> (last visited Nov. 27, 2009).

<sup>23</sup> *Código Penal Português (texto oficial) [Portuguese Penal Code (official text)]*, DIÁRIO DA REPÚBLICA, Sept. 4, 2007, at 57-58, available at <http://www.dre.pt/pdf1sdip/2007/09/17000/0618106258.pdf>.

<sup>24</sup> SR 311.0 Art. 261bis Rassendiskriminierung (Schweizerisches Strafgesetzbuch) [Racial Discrimination (Swiss Penal Code)], Swiss Confederation, available at [http://www.admin.ch/ch/d/sr/311\\_0/a261bis.html](http://www.admin.ch/ch/d/sr/311_0/a261bis.html) (last visited Nov. 27, 2009).

<sup>25</sup> Melanie Phillips, *Holocaust-denial law and the attempted extradition of a man for publishing antisemitic material*, MAIL ONLINE, Oct. 6, 2008, available at <http://www.dailymail.co.uk/news/article-1069469/MELANIE-PHILLIPS-We-let-Brussels-turn-Holocaust-denial-crime.html>.

<sup>26</sup> *Italy drafts new hate crime law*, THE PENINSULA, Jan. 1, 2007, available at [http://www.thepeninsulaqatar.com/Display\\_news.asp?section=World\\_News&subsection=Rest+of+the+World&month=January2007&file=World\\_News2007012783230.xml](http://www.thepeninsulaqatar.com/Display_news.asp?section=World_News&subsection=Rest+of+the+World&month=January2007&file=World_News2007012783230.xml).

<sup>27</sup> Dan Bilefsky, *EU adopts measure outlawing Holocaust denial*, April 17, 2007, available at [http://www.nytimes.com/2007/04/19/world/europe/19iht-eu.4.5359640.html?\\_r=1](http://www.nytimes.com/2007/04/19/world/europe/19iht-eu.4.5359640.html?_r=1).

<sup>28</sup> Denis Dzidic, *Bosnia's Ethnic Tensions Delay Holocaust Denial Law*, Jan. 30, 2009, available at <http://www.globaliamagazine.com/?id=585>.

<sup>29</sup> *Decision 30/1992 (V.26)*, The Constitutional Court of the Republic of Hungary, available at [http://www.mkab.hu/content/en/en3/30\\_1992.pdf](http://www.mkab.hu/content/en/en3/30_1992.pdf) (last visited Nov. 29, 2009).

<sup>30</sup> Pleno. Sentencia 235/2007, de 7 de noviembre de 2007 [Plenum. Case 235/2007, of November 7, 2007], Tribunal Constitucional de España [TCE] [Spain's Constitutional Court], available at <http://www.tribunalconstitucional.es/en/jurisprudencia/Pages/Sentencia.aspx?cod=9396> (last visited Nov. 29, 2009).

