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COMMISSION ON HUMAN RIGHTS
SUB-COMMISSION ON PREVENTION OF
DISCRIMINATION AND PROTECTION
OF MINORITIES
Twenty-second session
Item 10 of the provisional agenda

GENOCIDE

Note by the Secretary-General

Addendum

The following further replies have been received to the inquiry dispatched to Governments in accordance with the first operative paragraph of resolution 1420 (XLVI) of the Economic and Social Council:

BRAZIL

[Original: English]
19 August 1969

The Convention on the Prevention and Punishment of the Crime of Genocide has been promulgated in Brazil by Decree No. 30822, of 6 May 1952. Furthermore, Law No. 2889 of 1 October 1956, defines the crime of genocide in the same way as the said Convention and, inter alia, establishes the penalty of twelve to thirty years of imprisonment, i.e., the maximum penalty contemplated by the Brazilian Penal Code.

Finally, the Brazilian Government, bearing in mind the fact the Convention on the Prevention and Punishment of the Crime of Genocide has been fully observed in Brazil, deemed it unnecessary to adopt any special measures in this connexion.

DENMARK

[Original: English]
25 August 1969

On 29 April 1955 a Danish law was promulgated with provisions for the punishment of the crime of genocide in order to give effect to the obligation under the Convention on the Prevention and Punishment of the Crime of Genocide.

FINLAND

[Original: English]
14 August 1969

The provisions in the Finnish penal legislation already at the time of accession of Finland to the Convention on Prevention and Punishment of the Crime of Genocide covered the deeds to be punished according to the provisions of the said Convention. Therefore no measures to give effect to the Convention have been needed after the accession.

FEDERAL REPUBLIC OF GERMANY

[Original: English]
15 August 1969

The instrument of accession of the Federal Republic of Germany to the Convention of 9 December 1948 on the Prevention and Punishment of the Crime of Genocide was deposited with the Secretary-General of the United Nations on 24 November 1954. The Convention entered into force in relation to the Federal Republic of Germany on 22 February 1955.

(1) Legislative measures concerning the German Penal Code

In pursuance of article 2 of the German Act of 9 August 1954 concerning the accession of the Federal Republic of Germany to the Convention on the Prevention and Punishment of the Crime of Genocide (Federal Gazette 1954, part II, page 729), the following provision has been introduced into the German Penal Code:

"Section 220 (a)

(1) Any person who, with the design of wholly or partially destroying a national racial, religious, or ethnic group, intentionally

1. Kills a member of such a group;

/...

2. subjects members of the group to severe physical or mental harm, especially of the kind described in section 224;
3. places the group under living conditions which are physical destruction of its members;
4. imposes regulations designed to prevent procreation within the group;
5. transfers by force the children of the group to another group;

shall be punished for the crime of genocide by penal servitude ("Zuchthaus") for life.

(2) If, in cases coming under paragraph (1) numbers 2 to 5 above, extenuating circumstances are present, the punishment shall be penal servitude for not less than five years."

Article 4 of the said Act lays down that section 3 of the German Extradition Act which provides that extradition will not be granted for offences of a political nature, shall not be applicable in the case of genocide.

Under the ninth Act amending the Penal Law, which entered into force on 6 August 1969, section 66, paragraph (2) of the German Penal Code provides as follows:

"(2) The prosecution of crimes according to section 220 (a) (genocide) and the enforcement of sentences awarded for the crime of genocide (section 220 (a)) shall not be barred by statutory limitation."

(2) Legislative measures affecting the German Judicature Act

As to the question of jurisdiction for matters constituting the crime of genocide, section 134 of the German Judicature Act has been amended pursuant to article 3 of the above-mentioned Act of 9 August 1954 to the effect that in criminal matters concerning genocide (section 220 (a) of the Penal Code) the Federal High Court (Bundesgericht), for the time being, shall be competent for the investigation and adjudication of such crimes as the court of first and last instance.

However, the new Act for introduction of a second instance for criminal matters concerning acts committed in violation of the laws of treason, which will enter into force on 1 October 1969, provides in article 1, inter alia, that those criminal matters which up to now come under the jurisdiction of the Federal High Court as the court of first and last instance, will in future be dealt with and adjudicated upon in the first instance by the higher regional courts

(Oberlandesgerichte) at the seats of the state governments. These matters include the crime of genocide. At the same time, section 333 of the German Code of Criminal Procedure will be amended - likewise taking effect on 1 October 1969 - thereby providing for the possibility to appeal from the higher regional courts (Oberlandesgerichte) to the Federal High Court (Bundesgericht). This appeal is known as "Revision" (petition for review).

By introducing this procedure, the Federal Republic of Germany, moreover, adheres to the principle proclaimed in article 14, paragraph (5), of the International Covenant on Civil and Political Rights which has been laid open by the United Nations for signature and ratification.

JAMAICA

[Original: English]
20 August 1969

The Chargé d'Affaires a.i. has the honour, on behalf of his Government, to transmit to the Secretary-General the attached copy of a Bill entitled "An Act to amend the Offences against the Person Law", together with the Memorandum of Objects and Reasons presented by the Minister of Legal Affairs of Jamaica. This legislation was adopted as proposed.

"A BILL

Entitled

AN ACT to amend the Offences against the Person Law

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:

1. This Act may be cited as the Offences against the Person (Amendment) Act, 1968, and shall be read and construed as one with the Offences against the Person Law (hereinafter referred to as the principal Law) and all amendments thereto and shall come into operation on a day to be appointed by the Minister by notice published in the Gazette.

2. The principal Law is hereby amended by inserting therein next after section 28, the following as section 28A -

"Genocide. 28A - (1) Whosoever shall advocate or promote genocide is guilty of an indictable offence and shall be liable to be imprisoned for a term not exceeding ten years, with or without hard labour.

(2) In this section 'genocide' means any of the following acts committed with intent to destroy, in whole or in part, any national, ethnical, racial or religious group, as such -

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to members of the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) imposing measures intended to prevent births within the group;
- (e) forcibly transferring children of the group to another group."

MEMORANDUM OF OBJECTS AND REASONS

Jamaica has acceded to the United Nations Convention on the prevention and punishment of the crime of genocide. Article V of this Convention requires the contracting parties to enact appropriate legislation for the prevention and punishment of that crime.

This Bill is designed to give effect to this requirement."
