Tunisia: Draft Organic Law on the Elimination of Racial Discrimination

February 2017

Legal analysis

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Introduction

In February 2017, ARTICLE 19 reviewed selected provisions of the Tunisian Draft Organic Law on the Elimination of Racial Discrimination[1] - that is currently being discussed in the country – for its compliance with international freedom of expression standards. The Draft Law aims at "the elimination of all forms of discrimination between people on the basis of race, colour, origin, national or ethnic descent or religion to ensure equality and respect of human dignity by rejecting various forms of discrimination, suing and sanctioning its perpetrators, and setting up appropriate mechanisms to protect its victims."

At the outset of the analysis, ARTICLE 19 reaffirms its view that the rights to freedom of expression and equality are universal, indivisible, interdependent and interrelated and essential to the international protection of human rights.[2] We believe that racial discrimination and discrimination on other grounds constitute one of impediments to the realisation of the right to freedom of expression. Discrimination can inhibit and stifle the right of everyone to seek, receive and impart information and ideas through any media and regardless of frontiers. ARTICLE 19 is thus particularly concerned with the prevalence of various forms of discrimination, as well as the existence in many countries and regions of the world of a climate of intolerance, and the threat these pose to equality and the full enjoyment of human rights and freedoms. From its inception, ARTICLE 19 has stressed the positive contribution that the exercise of the right to freedom of expression, and full respect for the right to freedom of information can make to the fight against racism, discrimination, and intolerance.

As such, ARTICLE 19 appreciates the initiative to adopt a dedicated law addressing various issues related to racial discrimination in Tunisia; and we believe that the failure to fight against racism will also constitute a failure to promote and defend diversity and pluralism of voices. Previously, ARTICLE 19 also elaborated a detailed framework for the mutually reinforcing nature of the rights to freedom of expression and equality in *The Camden Principles on Freedom of Expression and Equality*,[3] drafted by ARTICLE 19 on the basis of discussions with international experts, as well as in the dedicated policy document *Prohibiting incitement to discrimination, hostility or violence*.[4] Both of these documents are reflected in this analysis.

In our view, Tunisia will only achieve its overall aim of the Draft Law if it complies with the international standards on freedom of expression. The Draft Law has a number of serious shortcomings in this respect that should be addressed before the final text is adopted. In our analysis, we focus on these provisions and suggest how they should be made fully compliant with relevant standards. ARTICLE 19 does not review the Draft Law in full for its compliance with other international standards on equality and non-discrimination; the fact that we provide no comments on some provisions should not be interpreted as ARTICLE 19's agreement with or endorsement of the text.

[1] This analysis is based on an unofficial translation which was transmitted to ARTICLE 19 in January 2017. ARTICLE 19 takes no responsibility for the accuracy of the translation or for comments made on the basis of any inaccuracies in the translation.
[2] Vienna Declaration and Programme of Action, 12 July 1993, A/CONF.157/23.
[3] ARTICLE 19, Camden Principles on Freedom of Expression and Equality, London, 2009; available at http://bit.ly/1CroXer.
[4] ARTICLE 19, Prohibiting incitement to discrimination, hostility or violence, London, 2012; available at http://bit.ly/VUzEed.

We stand ready to support the review of the Draft Law and provide further assistance in this process.

Summary of recommendations

- The focus of any law on discrimination should be broad and it should provide protection against discrimination on all the protected grounds recognised under international human rights law;
- The definition of the ''discrimination order'' should be eliminated;
- Provisions of Article 19 of the Draft Law on injunctions should be clarified;
- Articles 21, 22 and 24 of the Draft Law should be should be eliminated.

Applicable international human rights standards

The right to freedom of expression

ARTICLE 19's analysis is informed by international human rights law, in particular the right to freedom of expression as protected by Articles 19 of the Universal Declaration of Human Rights, as well as Articles 19 and 20 of the International Covenant on Civil and Political Rights (ICCPR), one of the core international human rights treaties to which Tunisia has acceded. Article 19 of the ICCPR states:

> 1. Everyone shall have the right to hold opinions without interference.
> 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
> 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
> (a) For respect of the rights or reputations of others;
> (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 20 of the ICCPR then states:

> 1. Any propaganda for war shall be prohibited by law.
> 2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

It is noted that the UN Human Rights Committee (HR Committee) has stated that there is no contradiction between the duty to adopt domestic legislation against incitement under Article 20(2) and the right to freedom of expression.[5] The HR Committee has recognised the overlapping nature of Articles 19 and 20, stating that it considered that "restrictions on expression which may fall within the scope of Article 20 must also be permissible under Article 19, paragraph 3, which lays down requirements for determining whether restrictions on expression are permissible."[6] In General Comment 34,[7] the HR Committee re-affirmed that there is a strong coherence between Articles 19 and 20 of the ICCPR when it stated that:

> 50. Articles 19 and 20 are compatible with and complement each other. The acts that are addressed in Article 20 are all subject to restriction pursuant to Article 19, paragraph 3. As such, a limitation that is justified on the basis of Article 20 must also comply with Article 19, paragraph 3.
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> 51. What distinguishes the acts addressed in Article 20 from other acts that may be subject to restriction under Article 19, paragraph 3, is that for the acts addressed in Article 20, the Covenant indicates the specific response required from the State: their

[5] General Comment No 11: Prohibition of Propaganda for War and Inciting National, Racial or Religious Hatred (Article 20), 29 July 1983, UN Doc HRI/GEN/1/Rev 6 at 133 para 2.
[6] *Ross v Canada*, Communication No 736/1997, UN Doc CCPR/C/70/D/736/1997, 18 October 2000.
[7] General Comment No 34, Freedoms of Opinion and Expression (Article 19), CCPR/C/GC/34, 12 September 2011.

> prohibition by law. It is only to this extent that Article 20 may be considered as lex specialis with regard to Article 19.
>
> 52. It is only with regard to the specific forms of expression indicated in Article 20 that States parties are obliged to have legal prohibitions. In every case in which the state restricts freedom of expression it is necessary to justify the prohibitions and their provisions in strict conformity with Article 19.

Thus, any law seeking to implement the provisions of Article 20 para 2 of the ICCPR must not overstep the limits on restrictions to freedom of expression set out in Article 19 para 3.

Article 20 para 2 of the ICCPR does not require States to prohibit all negative statements towards national groups, races and religions. However, States should be obliged to prohibit the advocacy of hatred that constitutes incitement to discrimination, hostility or violence. "Prohibition" encompasses 3 types of sanction: civil, administrative or, as a last resort, criminal.

As already noted, ARTICLE 19 has developed a specific policy on prohibitions of incitement that elaborates on interpretation of Article 20(2) of the ICCPR in a greater detail;[8] some of the recommendations of this policy have been adopted in the UN Rabat Plan of Action.[9] We outline the relevant provisions of these policies in the analysis of the Draft Law in the next section.

Different standard in the ICCPR and ICERD

States are also obliged under the International Convention on the Elimination of Racial Discrimination (ICERD)[10] to "declare [as] an offence punishable by law" the following four types of conduct:

- All dissemination of ideas based on racial superiority or hatred;
- Incitement to racial discrimination;
- All acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin;
- Any assistance of racist activities, including the financing of them.

This is a different set of requirements prohibiting particular types of speech than in Article 20 para 2 of the ICCPR. In the *Prohibiting incitement* policy, ARTICLE 19 argues that treaties are to be interpreted in accordance with the Vienna Convention on the Law of Treaties.[11] The Vienna Convention stipulates that "a treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose"[12] and any subsequent practice or agreement. When the interpretation leaves the meaning ambiguous or obscure or leads to a manifestly absurd or unreasonable result, supplementary means of interpretation can be used. ARTICLE 19 argues that, based on the Vienna Convention, Article 4(a) of the ICERD should be interpreted with "due regard" to the right to freedom of expression (as protected in Article 5 of the ICERD and

[8] *Prohibiting Incitement, op.cit.*
[9] The Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, 2012, available at http://bit.ly/WljCyQ.
[10] Article 4(a) of the ICERD of the International Convention on the Elimination of All Forms of Racial Discrimination New York, adopted on 7 March 1966, entered into force on 4 January 1969.
[11] Vienna Convention on the Law of Treaties, 1969, Articles 31 and 32.
[12] Ibid., Article 31 para 1.

Article 19 of the ICCPR) and more generally to any agreement which followed the adoption of the ICERD, including the ICCPR.

We also suggested that the provisions related to the "dissemination of ideas based on racial superiority or hatred" and "the provision of any assistance to racist activities" should be interpreted narrowly, according to the level of severity and the threshold set by Article 20 para 2 of ICCPR. The dissemination of such ideas or the provision of assistance to such activities should only be prohibited where it is on a very large and serious scale. Moreover, States should ensure that any legal prohibitions which purport to implement Article 4 of the ICERD should be necessary and proportionate to a legitimate aim, and should include a requirement of intent to bring about a prohibited result.

Non-discrimination

Additionally, non-discrimination is guaranteed by Article 2 para 1[13] and Article 26[14] of the ICCPR. The HR Committee has affirmed the expansive scope of the term "discrimination" as implying "any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms."[15]

At the regional level, the African Charter on Human and Peoples' Rights[16] (the African Charter) guarantees the right to freedom of expression and information under Article 9. There is no provision within the African Charter equivalent to Article 20(2) of the ICCPR requiring States to prohibit incitement.

Article 2 of the African Charter provides for non-discrimination in the enjoyment of rights on the basis of a non-exhaustive list of protected characteristics. Article 19 of the African Charter provides that "all peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another." The case law of the African Commission on incitement to hatred is limited.[17]

[13] Article 2 of the ICCPR reads: "Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as [...] sex [...] or other status."
[14] Article 26 of the ICCPR reads: "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as [...] sex [...] or other status."
[15] HR Committee, ICCPR General Comment No. 18: Non-discrimination, 10 November 1989, para. 7.
[16] The African (Banjul) Charter on Human and Peoples Rights, adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986.
[17] The only decision is Communication No. 249/02, Institute for Human Rights and Development in Africa (on behalf of Sierra Leonean refugees in Guinea) v. Republic of Guinea (2004) AHRLR 57 (ACHPR 2004).

Analysis of the Draft Law

ARTICLE 19 reiterates that we consider the Draft Law a welcome effort to provide framework legislation on discrimination. We note that it is often in the absence of robust anti-discrimination frameworks that recourse is made to the criminal law, even though criminal measures are not the most effective forum for resolving incidents of discrimination. We note that the Draft Law has a number of positive features in this respect, in particular:

- It mandates the Human Rights Committee of Tunisia to monitor cases of discrimination, creating national strategies and guidelines to eliminate discrimination and coordinate with public institutions in this respect (Section 6);

- It provides for data collection mechanisms on discrimination and for analysis of the data (Section 2). This is important since any comprehensive policy for tackling inequality and discrimination should be evidence-based: the information collected is key for identifying policy priorities, identifying key actors as well as obstacles, and for monitoring and evaluating the effectiveness of any policy;

- It includes various provisions on education and teaching programs on discrimination, in particular for judges. We believe that trainings on discrimination are essential, particularly where discrimination is institutionalised and has a history of going unchallenged.

However, we consider that the Draft Law has some significant shortcomings that need to be addressed, in particularly to adequately safeguard the right to freedom of expression.

Focus on "racial" discrimination

The Draft Law is focused solely on the elimination of "racial" discrimination which is defined, in Article 1, as "discrimination on the basis of race, colour, origin, national or ethnic descent or religion." There are further references to other protected grounds in Article 4, with a non-exhaustive list (including ideology, age, economic or social conditions and other grounds).

ARTICLE 19 finds that Article 1, read together with Article 4, is confusing. However, more importantly, we note that the sole focus on "racial discrimination" disregards other forms of discrimination against individuals on other protected grounds recognised by international law, such as gender, age or disability.

We assume that this formulation might be the result of the drafters' decision to focus the legislation on the protected grounds listed in the relevant provisions of ICERD and Article 20 para 2 of the ICCPR. Article 20 para 2 indeed only lists three characteristics which states are required to protect from incitement – nationality, race, and religion. However, ARTICLE 19 recommends that this list should be read in light of Article 2 para 1 and Article 26 of the ICCPR. This interpretation would comply with the evolution of developments in human rights protections since the adoption of the ICCPR in 1977.[18] ARTICLE 19 has also pointed out that

[18] The ICCPR was adopted before equality movements around the world made significant progress in promoting

the ICCPR was adopted before equality movements around the world made significant progress in promoting and securing human rights for all. However, the ICCPR has since come to be interpreted and understood as supporting the principle of equality on a larger scale, applying to other grounds not expressly included in the treaty text. This interpretation is in line with the notion that, in order for their object and purpose to be fulfilled, international human rights law must be interpreted as a living instrument, in light of present day conditions, rather than viewed as contracts with concrete terms defined by the norms that prevailed at the time of their drafting or ratification.[19] ARTICLE 19 has also argued that the realisation of human rights should not be constrained by an overly formalistic commitment to the original wording of any instrument, or even to the intent of the drafters, if that interpretation would unnecessarily narrow the enjoyment of rights and freedoms.

It is possible that the Tunisian government is planning to introduce specific legislation on each protected ground (e.g. dedicated legislation on protection against discrimination on the basis of disability, and similar). We would argue that this solution is not practical, and could result in varying levels of protection being available across the different protected grounds. Hence, ARTICLE 19 argues for a single piece of dedicated legislation that would guarantee the right to non-discrimination on a broad range of protected grounds.

Recommendations:

- The focus of any law on discrimination should be broad and it should provide protection against discrimination on all the protected grounds recognised under international human rights law.

Key definitions

Article 4 provides the definition of various forms of discrimination, starting with an overall definition of "discrimination" and then various sub-categories of discrimination.
ARTICLE 19 finds some inconsistencies in the wording of these definitions and recommends the consultation of comparative legislation from other countries in this respect.

Our key concern, however, is sub-section of Article 4, which defines a "discrimination order" as "coercion, guidance, incitement, facilitation or authorization to perform an act aimed for discrimination against an individual or a group of individuals."

In general, ARTICLE 19 recommends that domestic legislation should include specific and clear reference to "incitement to discrimination, hostility or violence" with reference to Article 20(2) of the ICCPR, and avoid broader or less specific language. It is also important that any prohibition of incitement should conform to the three-part test of legality, proportionality and necessity under Article 19(3) of the ICCPR. This means that any prohibitions are provided for by law; pursue a legitimate aim; and are necessary in a democratic society, i.e. it must meet a pressing social need and meet the requirement of proportionality.

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and securing human rights for all. However, it has since come to be interpreted and understood as supporting the principle of equality on a larger scale, applying to other grounds not expressly included in the treaty text.

[19] In the context of the ICCPR, see: Manfred Nowak, UN Covenant on Civil and Political Rights, CCPR Commentary, 2nd revised edition, at page 628. In the context of the ECHR, see: *Tyrer v. the United Kingdom*, A 26 (1978).

ARTICLE 19 finds the definition in Article 4 to be overbroad and too vague to have the qualities of precision and accessibility required by international standards on freedom of expression. The terms contained in the definition may be interpreted subjectively.

Recommendations:
- The definition of a "discrimination order" should be removed from the legislation.

Injunctions

Article 19 of the Draft Law prohibits "sanctions or legal injunctions" against individuals who filed for certain legal suits, unless "evidence shows that the lawsuit is based on other grounds."

ARTICLE 19 observes that these provisions lack the clarity required by international law. We are unsure what is meant by these provisions at all. We note that in the context of freedom of the media, an injunction is a court order that prohibits media from publishing certain information or continuing to do so, or face civil or criminal penalties. Where applied prior to publication, injunctions are a form of prior censorship and as such are an extreme restriction on freedom of expression. If the authorities are able to suppress publications which nobody has seen, it becomes impossible for others to verify whether the suppression was indeed justified; such an unchecked power can be abused to prevent legitimate criticism.

Hence, we urge the drafters to clarify the provisions of Article 19 of the Draft Law and remove the ambiguity around the injunctions.

Recommendations:
- The text of Article 19 of the Draft Law should be clarified.

Discrimination offences

Article 21 of the Draft Law provides for the criminalisation of the following conduct:
- "Dissemination of ideas based on racial superiority or racial hatred, incitement for discrimination, acts of violence or incitement to commit violence against an ethnic group, a religion, a group of different color or of different ethnic origin, and all forms of racial activities including funds and support provided to them;" and
- "Organizations and advertising activities promoting and encouraging discrimination."

Further, Article 22 of the Draft Law criminalises "statements or acts committed against an individual, groups of individuals, or institutions aimed at racial discrimination or at inciting, supporting or protecting discrimination, or contributing to raising obstacles between individuals or groups of individuals, or imposing separations or exclusions, or supporting them based on discrimination."

Finally Article 24 provides for criminalisation (with "the penalty of 6 months – 3 years imprisonment and a fine of 1,000-3,000 dinar or either sanction") of various "incitement" crimes.

These provisions do not meet international standards outlined above, for the following reasons:
- The wording of the crimes is overbroad, vague and open to wide and subjective interpretation. We reiterate the recommendations that the drafters should rely on wording

of Article 20 para 2 of the ICCPR when prohibiting incitement rather than other formulations. ARTICLE 19 is concerned that, combined, these provisions create a virtually open-ended definition that can be used to criminalise speech that would otherwise be protected under international law.

- There is no requirement of intent: ARTICLE 19 argues that incitement to hatred should always be an intentional crime to meet requirements of the ICCPR. The intent of the speaker to incite to hatred (that is, to incite others to commit acts of discrimination, hostility or violence) should be considered a crucial and distinguishing element of incitement as prohibited by Article 20 para 2 of the ICCPR. Importantly, the element of intent distinguishes incitement from other forms of expression that may offend, shock or disturb but are nevertheless protected under Article 19 of the ICCPR. Hence, ARTICLE 19 recommends that domestic legislation should always explicitly state that the crime of incitement is an intentional crime and not a crime that can be committed through recklessness or negligence. The elements of intent should include:
  - Volition (purposely striving) to engage in advocacy to hatred;
  - Volition (purposely striving) to target a protected group on the basis of prohibitive grounds; and
  - Having knowledge of the consequences of his/her action and knowing that the consequences will occur or might occur in the ordinary course of events.

- It is not clear what sanctions are to be applied for violation of provisions set out in Article 21 and 22 of the Draft Law. Even if these provisions are intended to implement the provisions of Article 20 para 2 of the ICCPR, we note that Article 20 para 2 of the ICCPR requires States to *prohibit* incitement but not to *criminalise* it, ARTICLE 19 recommends that States apply a variety of legal means to respond to incitement, including civil, administrative and other measures. Criminal law penalties should be limited to the most severe forms of incitement, applied as a measure of last resort only "in strictly justifiable situations, when no other means appears capable of achieving the desired protection of individual rights in the public interest."[20] States should also provide a range of remedies to victims, such as civil tort claims, the right of correction and the right to reply that are often better suited as a response to incitement.

As the Draft Law provides strong emphasis on the training of judges, ARTICLE 19 also recommends that the drafters consider a recommendation that all incitement cases should be assessed under a "six part" incitement test, taking into consideration of the criteria outlined in the Rabat Plan of Action and in the ARTICLE 19 *Prohibiting Incitement* policy. These criteria include:

- Context of the expression: the analysis should consider the expression within the social and political context prevalent at the time when it was made and/or disseminated. Such analysis would consider issues such as the existence of conflicts in society, the existence and history of institutionalised discrimination, the legal framework, and the media landscape. An important aspect of the context would be the degree to which opposing or alternative ideas are present and available;

- The speaker: the analysis should examine the position of the speaker and his or her authority or influence over the audience. Special consideration should be made when

[20] Venice Commission, Report on the Relationship Between Freedom of Expression and Freedom of Religion, 17-18 October 2008; available at http://www.venice.coe.int/docs/2008/CDL-AD(2008)026-e.pdf.

the speaker was a politician or a prominent member of a political party and public officials or persons of similar status (e.g. teachers or religious leaders) due to the particular attention they receive from, and influence they exert over, their audience. This analysis should also examine the relationship of the audience to the speaker, as well as issues such as the degree of vulnerability and fear of the various communities, including those targeted by the speaker, or whether the audience is characterised by excessive respect for authority;

- Intent: as noted above, ARTICLE 19 recommends that any prohibition of incitement should require the intent of the speaker to incite others to hostility, discrimination or violence;

- Content of the expression: analysis of the content will typically include examination of what was said, the form and the style of the expression, whether the expression contained direct calls for discrimination or violence, the nature of the arguments deployed or the balance struck between the arguments. This analysis should also look at the targeted audience (those that the speech was intending to incite), how the targeted group are described, and the form of the expression. It should also be noted that under international standards, it has been recognised that certain forms of expression provide little scope for restrictions of freedom of expression; in particular artistic expression, public interest discourse, academic discourse and research and statements of facts and value judgements.

- Extent and magnitude of the expression: the analysis should examine the public nature of the expression,[21] the means of the expression and the intensity or magnitude of the expression in terms of its frequency or volume (e.g. one leaflet as opposed to broadcasting in the mainstream media, or singular dissemination as opposed to repeated dissemination). If the expression was disseminated through the media, consideration should be given to media freedom, in compliance with international standards.[22]

- Likelihood of harm occurring, including its imminence: in order to qualify as incitement, it must be established that there was a probability of harm occurring as a result of the expression. ARTICLE 19 notes that incitement, by definition, is an inchoate crime and the action advocated in the expression need not occur. However, courts should determine whether there was a reasonable probability that the speech would succeed in inciting the audience into committing the harm advocated.[23] Consideration must be also

[21] ARTICLE 19 suggest that this should include looking at issues such as whether the statement or communication was circulated in a restricted environment or whether it was widely accessible to the general public; whether it was made in a closed place accessible by ticket or in an exposed and public area; whether the communication was directed at a non-specific audience (the general public); or whether the speech was directed to a number of individuals in a public place, and whether the speech was directed to members of the general public.

[22] As the European Court noted, "while the press must not overstep the boundaries set, *inter alia*, for the protection of the vital interests of the State, [...] it is nevertheless incumbent on it to impart information and ideas on political issues, including divisive ones. Not only does the press have the task of imparting such information and ideas: the public also has a right to receive them. The freedom to receive information or ideas provides the public with one of the best means of discovering and forming an opinion on the ideas and attitudes of their leaders." See *Halis Doğan v. Turkey.* no. 71984/01 (2006).

[23] ARTICLE 19 suggest that this examination should look at issues such as whether the speech is understood by its audience to be a call to acts of discrimination, violence or hostility; whether the speaker is able to influence the audience; whether the audience had the means to resort to the advocated action, and commit acts of discrimination, violence or hostility, or whether the targeted victim group suffered or recently been the target of discrimination, violence or hostility. C.f. Susan Benesh, *op.cit*.

given to "whether the ordinary, reasonable viewer would understand from the public act that he or she is being incited to hatred."[24] ARTICLE 19 also argues that the possibility of such harm should be imminent: it should be ensured that the length of time for which a speaker can be held liable for acts resulting from the speech in question, should not be so extended that the speaker could not reasonably be held responsible for the eventual result.

Recommendations:

- Articles 21, 22 and 24 of the Draft Law should be eliminated.

[24] *Ekermawi v Network Ten Pty Ltd*, [2008] NSWADT 334, 18 November 2008, 16 December 2008.

About ARTICLE 19

ARTICLE 19 advocates for the development of progressive standards on freedom of expression and freedom of information at the international and regional levels, and their implementation in domestic legal systems. The Law Programme has produced a number of standard-setting publications which outline international and comparative law and best practice in areas such as defamation law, access to information and broadcast regulation.

On the basis of these publications and ARTICLE 19's overall legal expertise, the organisation publishes a number of legal analyses each year, comments on legislative proposals as well as existing laws that affect the right to freedom of expression. This analytical work, carried out since 1998 as a means of supporting positive law reform efforts worldwide, frequently leads to substantial improvements in proposed or existing domestic legislation. All of our analyses are available at http://www.article19.org/resources.php/legal.

If you would like to discuss this analysis further, or if you have a matter you would like to bring to the attention of the ARTICLE 19 Law Programme, you can contact us by e-mail at legal@article19.org. For more information about the ARTICLE 19's work in Tunisia, please contact Saloua Ghazouani Oueslati, Director of ARTICLE 19 Tunisia and MENA, at saloua@article19.org.