

C. T F E. 337

OBSCENE PUBLICATIONS

EXECUTION OF ARTICLE XVI OF THE INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE CIRCULATION OF AND TRAFFIC IN OBSCENE PUBLICATIONS.

MEMORANDUM BY THE SECRETARY-GENERAL OF THE LEAGUE AND REPLIES FROM GOVERNMENTS.

INTRODUCTION.

Geneva, April 7th, 1927

On the request of the Traffic in Women and Children Committee, the Council, at a meeting held on June 7th, 1926¹ instructed the Secretary-General to ask the Members of the League of Nations and the Parties to the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications of 1923 whether they would be prepared to furnish the information referred to in paragraph 9 of the Final Act of the International Conference of 1923 for the Suppression of the Circulation of and Traffic in Obscene Publications.

This paragraph reads as follows

“ With a view to the application of Article XVI² of the Convention, the Conference recommends that the Secretariat of the League of Nations be charged with issuing periodically a questionnaire on the subject of the traffic in obscene publications to all authorities designated under the Agreement of May 4th, 1910, and, in the case of any country where no such authority has been designated, to the Government of such country

“ The information to be asked for in the questionnaire should include the number of cases where proceedings have been instituted, particulars of the offences and the results of the proceedings, particulars of offences reported to designated authorities in other countries and observations generally as to the extent and nature of the traffic. ”

The following questionnaire, drawn up in accordance with the indications given in paragraph 9 of the Final Act, was attached to the Secretary-General's circular letter to the Governments

“ 1. In how many cases have proceedings been instituted for offences coming under Article I³ of the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications ?

“ 2. Can particulars be furnished concerning the offences referred to under I and the results of the proceedings ?

“ 3. Can particulars be furnished concerning the offences referred to under I reported to designated authorities in other countries ?

“ 4. Are there any general observations which can be given as to the extent and nature of the traffic ? ”

¹ See *Official Journal*, July 1926, page 858.

Article XVI reads as follows “ Upon a request for a revision of the present Convention by five of the signatory or adherent Parties to the Convention, the Council of the League of Nations shall call a conference for that purpose. In any event, the Council will consider the desirability of calling a conference at the end of each period of five years. ”

Article I of the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications reads as follows

“ The High Contracting Parties agree to take all measures to discover, prosecute and punish any person engaged in committing the following offences, and accordingly agree that

“ It shall be a punishable offence

“ 1. For purposes of or by way of trade or for distribution or public exhibition to make or produce or have in possession obscene writings, drawings, prints, paintings, printed matter, pictures, posters, emblems, photographs, cinematograph films or any other obscene objects

“ 2. For the purposes above mentioned to import, convey or export or cause to be imported, conveyed or exported any of the said obscene matters or things, or in any manner whatsoever to put them into circulation

“ 3. To carry on or take part in a business, whether public or private, concerned with any of the said obscene matters or things, or to deal in the said matters or things in any manner whatsoever, or to distribute them or to exhibit them publicly or to make a business of lending them

“ 4. To advertise or make known by any means whatsoever, in view of assisting in the said punishable circulation or traffic, that a person is engaged in any of the above punishable acts, or to advertise or to make known how or from whom the said obscene matters or things can be procured either directly or indirectly. ”

The Governments of the following countries have replied to the circular letter mentioned above

South Africa
Canada
China
Cuba
Denmark
Estonia
Germany
Great Britain
Hungary

Irish Free State
Italy
Latvia
Monaco
Netherlands
New Zealand
Norway
Portugal
Switzerland

In addition, various Governments have promised to send the information at a later date.

The Cuban Government has stated that it has not yet ratified the Convention of 1923 and is therefore unable to apply the stipulations of that Convention to which the questionnaire refers. The Convention is now, however, before the Senate. A request for its approval has recently been sent in by the Government and as soon as it is ratified the necessary legislation will be passed and the relevant information will be sent to the League Secretariat.

Hungary has not yet ratified the Convention, and is therefore not in a position to supply statistical data with regard to the offences coming under Article I¹

The Italian Government has informed the Secretariat that the Italian Penal Code is now being revised and that a reply will be sent to the questionnaire when the new Code has been adopted.

The numbers of prosecutions vary greatly in the different countries.

Germany has reported 294 convictions in 1923 and 230 convictions in 1924.

In Great Britain, 538 cases have been investigated since 1923. In 48 cases prosecutions took place. In many cases in Great Britain where it was not found practicable to try the offender before a Court, suitable administrative action was taken by warning or otherwise.

The Portuguese Government has reported 48 cases of prosecution.

In all the other countries from which information has been received the number of prosecutions seems to have been insignificant.

Relatively few of the reports contain general observations on the international Traffic. The most important statements on the general position are contained in the reports of Germany and Great Britain.

The German Government makes the interesting statement that the international traffic is in the hands of a very limited number of persons and adds that a list of such persons has been communicated by the German authorities to the competent authorities of the other contracting States.

The British report draws attention to the system of advertising adopted by dealers in obscene goods. The investigations made in Great Britain show that frequently the offenders obtain the goods by writing to dealers whose names and addresses are given in certain foreign newspapers and periodicals. It is pointed out in the British report that the publication of these advertisements is a breach of the Convention and it is suggested that the traffic would be seriously hampered if all the countries would take active measures for the suppression of all such advertisements.

The following is a summary of replies received from the various Governments (with regard to Cuba, Hungary and Italy, see the statement made above).

QUESTION 1.

In how many cases have proceedings been instituted for offences coming under Article I of the International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications ?

Replies.

SOUTH AFRICA. — Since 1923, one case only

CANADA. — Proceedings were instituted in 103 cases from September 1923 to September 1926.

CHINA. — The reports of the Chinese Law Courts show no cases of offences coming under Article I of the Convention.

DANZIG. — Since September 12th, 1923, eighteen prosecutions have been carried out by the authorities of the Free City with a view to the suppression of obscene publications

The Hungarian Government adds the following remark

“ The Hungarian system of statistics with regard to penal offences contains data relating to certain groups, for example. Offences and crimes against decency’ and these are not given separately. After the ratification and entry into force of the Convention, the Minister of Justice will therefore consider the question of how the compilation of statistical data should be extended in order that it may be possible to reply to the questionnaires of the League of Nations on this subject.”

and pictures. Eight cases ended in conviction. In five cases the proceedings taken by the Public Prosecutor's office were withdrawn. Four cases were settled by preventive proceedings in the form of Police enquiries. One case was still pending when the report was prepared.

DENMARK. — Since the signature of the International Convention there have been fourteen cases of prosecution for offences coming under Article 184 of the Danish Penal Code relative to the sale and distribution of obscene publications.

ESTONIA. — During the years 1924, 1925 and 1926, three cases were discovered by the Police. In all three cases the matter concerned pornographic pictures which seem to have been imported from abroad.

GERMANY — According to the records of the Reich Statistical Office, proceedings were instituted by the competent public authority in Germany in 1923 against 347 persons for offences under Article 184 of the German Penal Code. Two hundred and ninety-four persons were convicted, including 24 women, 7 foreigners and 3 minors.

In 1924, the number of persons convicted was 230 — including 9 women, 7 foreigners and 5 minors.

GREAT BRITAIN. — Since 1923, 538 cases have been investigated. In 48 cases prosecutions took place.

IRISH FREE STATE. — There were two cases in 1925. (See answer to Question 2.)

LATVIA. — Between January 1st, 1920, and May 26th, 1926, obscene publications appearing in Latvia were confiscated in thirteen cases. As regards foreign publications recognised as undesirable from the point of view of the suppression of the traffic in obscene publications, their importation and circulation in Latvia is prohibited by the Minister of the Interior in virtue of the provisions of Article 18 of the Press Law

MONACO. — Nothing to report.

NETHERLANDS. — Nine cases in 1925.

NEW ZEALAND. — Nothing to report.

NORWAY — One case convicted in 1920 and one case in 1923.

PORTUGAL. — The number of cases in which proceedings have been instituted for offences coming under Article I of the Convention is forty-eight.

SWITZERLAND. — Eight cases.

QUESTION 2.

Can particulars be furnished concerning the offences referred to under I and the results of the proceedings?

Replies.

SOUTH AFRICA. — A European bookseller of Cape Town was convicted in 1924 for selling certain publications considered to be improper and was sentenced to pay a fine of £3, with the alternative of fourteen days' imprisonment with hard labour.

CANADA. — In eighty-two cases publications have been destroyed in thirteen, the publications were re-exported and in eight no decision was taken.

CHINA. — Nothing to report.

DANZIG. — Five cases concerned publications imported from Germany. Two cases concerned two French weeklies. In one case action was taken in respect of the sale of obscene pictures and postcards at a fair. In all cases the publications in question were confiscated. In three cases judgment was given varying from a fine of 28 gulden or two days' imprisonment to a fine of 200 gulden or twenty days' imprisonment.

DENMARK. — The offences have consisted partly in traffic in obscene publications, pictures and postcards and partly in the publication in the Press of pornographic articles. Punishments have been inflicted varying from considerable fines to three months' imprisonment.

ESTONIA. — In one case a fine of 1,000 Estonian marks was imposed in another case a fine of 2,500 Estonian marks. A third case, which occurred during 1926, had not been examined by the Court when the report was forwarded to the Secretariat.

GERMANY — Of the persons convicted in 1923, 36 were sentenced to imprisonment (in addition, fines were imposed on 7) the remaining 258 persons were fined only

Of the persons convicted in 1924, 53 were sentenced to terms of imprisonment (5 being fined in addition) and 177 persons were sentenced to payment of fines only

GREAT BRITAIN. — There were 48 prosecutions which led to convictions concerned with the importation of indecent articles, pictures and books sending obscene matter through the post exhibiting indecent postcards in shop windows selling indecent matter publishing obscene books, etc. Punishments varied from fines of 40 shillings to eighteen months' imprisonment. In one case 69,230 obscene pictures were ordered to be destroyed. In another case the offender in addition to three months' imprisonment, was recommended for deportation.

IRISH FREE STATE. — A man on whose premises a large quantity of obscene literature, etc., was found was sentenced to twelve months' imprisonment.

Three youths who had been found affixing obscene written matter to a house were fined £2 each, in addition to which they were ordered to enter into recognisances to be of good behaviour for twelve months.

LATVIA. — Out of the publications dealt with in the reply to Question 1, in two cases copies confiscated were destroyed, while the judicial sentences regarding the others have not yet been executed.

In consequence of the confiscation referred to, two persons were deprived of the right to act as editors for three and four years respectively

MONACO. — Nothing to report.

NETHERLANDS. — Proceedings were taken against persons who were in possession of or distributing obscene pictures, postcards or publications. In one case the matter concerned cinematograph films. In eight cases the persons were convicted the punishments varied from fines of 100 gulden to imprisonment for six months.

NEW ZEALAND. — Nothing to report.

NORWAY. — In 1920, the Court of Correction at Trondhjem imposed, under Article 211 of the Penal Code, a fine of 500 kroner on a person who had been selling obscene pictures.

In 1923, the Supreme Court sentenced a person to twenty-four days' imprisonment for offences under the same article.

PORTUGAL. — The following numbers of obscene articles were seized obscene publications 2,600 photographs 815 postcards 270 plates 282.

SWITZERLAND. — The offences dealt with chiefly concern obscene pictures. In the eight cases indicated under Question 1, ten persons were implicated. Eight were condemned to terms of imprisonment and to fines. Two persons were acquitted.

QUESTION 3.

Can particulars be furnished concerning the offences referred to under I reported to designated authorities in other countries ?

Replies.

SOUTH AFRICA. — There was no occasion to communicate with any other countries with regard to the cases mentioned under I.

CANADA. — Nothing to report.

CHINA. — Nothing to report.

DANZIG. — The only communication received from external authorities was one made by the Police headquarters in Berlin in connection with two French weeklies.

DENMARK. — In no casè have the offences been reported to the authorities of other countries.

ESTONIA. — The third case mentioned under Questions 1 and 2 was brought to the knowledge of the competent German authority

GERMANY. — Offences were reported by the German authorities to the competent authorities of the following countries

	Cases		Cases
Austria	2	Italy	1
Belgium	1	Luxemburg	1
Czechoslovakia	2	Netherlands	2
Denmark	2	Spain	1
France	4	Switzerland	3
Great Britain	2	United States of America	2
Hungary	1		

GREAT BRITAIN. — Twenty-two cases were reported to the designated authorities in other countries, viz., thirteen to the French competent authority four to the German and five to the Spanish.

IRISH FREE STATE. — No cases reported.

LATVIA. — Nothing to report.

MONACO. — Nothing to report.

NETHERLANDS. — Nothing to report.

NEW ZEALAND. — Nothing to report.

NORWAY. — Nothing to report.

PORTUGAL. — Communications regarding obscene publications have been received by the Lisbon Administrative Police from Austria, Germany Great Britain, Hungary Netherlands and Switzerland.

The Lisbon Administrative Police has addressed communications on the same subject to the competent authorities in Austria, France, Germany Great Britain, Hungary Italy, Switzerland and the United States of America.

SWITZERLAND. — Nothing to report.

QUESTION 4.

Are there any general observations which can be given as to the extent and nature of the traffic ?

Replies.

SOUTH AFRICA. — There is very little traffic in obscene publications in South Africa. There is little evidence of trade in improper photographs, though a few are brought into the country by crews of the visiting vessels. The mere possession of these articles entails no penalty but traffic in them is punishable.

CANADA. — No comments.

CHINA. — No comments.

DANZIG. — The majority of obscene publications are imported from abroad. Only in rare cases has the production of such publications and pictures been discovered in Danzig. Obscene publications and pictures have very little circulation in Danzig.

DENMARK. — The traffic in obscene publications and pictures is not carried on on any considerable scale.

ESTONIA. — No comments.

GERMANY. — It is significant from the point of view of the international situation that the traffic is in the hands of a very limited number of persons. A list of such persons has been communicated to the Secretariat of the League of Nations the same list was sent to the authorities of the other contracting States on October 6th, 1925. Newspaper advertisements of obscene publications are very rare in Germany.

GREAT BRITAIN. — Of the forty-eight cases in which prosecutions took place, thirty were in respect of the importation of obscene wares from other countries. Only one case was discovered in which indecent photographs were being printed in Great Britain. Nearly all the obscene books in respect of which proceedings were taken were produced abroad and, being printed in English, were evidently intended for the English market.

Particular attention is drawn to the system of advertising adopted by dealers in obscene goods. The investigations made in Great Britain show that frequently the offenders have obtained the goods by writing to dealers whose names and addresses are given in certain foreign newspapers and periodicals. In some cases a successful attempt has been made to prevent the sale of these papers in Great Britain, but it is difficult to prevent persons travelling abroad from buying these periodicals and bringing them back with them. Not infrequently the same dealer advertises under two or three different names and addresses. It is pointed out that the publication of these advertisements is a flagrant breach of the International Convention, and it is suggested that the nefarious traffic would be seriously hampered if all the countries would take active measures for the suppression of all such advertisements.

IRISH FREE STATE. — There is reason to believe that a considerable traffic in indecent prints, postcards, etc., is carried on through the post, and a case came to light recently from which it would appear that foreign firms are communicating with stationers and private individuals with a view to inducing them to purchase for sale; etc., obscene prints, pictures and postcards.

LATVIA. — Several cases have occurred of publications of a doubtful nature ceasing to appear for lack of readers.

MONACO. — Nothing to report.

NETHERLANDS. — Very little traffic exists in the Netherlands. The only difficulty which presents itself to the authorities is that, according to the Penal Code, persons who sell certain indecent periodicals can only be prosecuted if it is proved that the seller is aware of the contents of the periodical. A draft law has been submitted to the States-General with a view to modifying the legislation on this point.

NEW ZEALAND. — So far as the Police are aware, traffic in obscene publications is not carried on in New Zealand.

NORWAY. — Traffic in obscene publications is of little importance in Norway.

PORTUGAL. — The offences relate solely to the city of Lisbon, in which a considerable number of French reviews and Spanish novels containing matter of the kind referred to in the Convention are sold they are difficult to seize owing to the provisions in force with regard to the production of foreign publications.

SWITZERLAND. — Traffic in obscene publications is of little importance in Switzerland.