

## ***Council of Europe contribution for the 26<sup>th</sup> UPR session regarding Iceland***

### **Prevention of torture (CPT)**

On 5 December 2013, the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the [report](#) on its visit to Iceland, which took place from 18 to 24 September 2012. The [response](#) from the Icelandic Government was also published on the same day.

Most of the persons with recent experience of police custody who were interviewed by the CPT's delegation stated that they had been treated in a correct manner. The conclusion reached by the Committee after its previous visits – namely that persons detained by the police in Iceland run little risk of being ill-treated – remains valid. As for conditions of detention in the police establishments visited, they were generally adequate.

As regards prisons, the CPT received hardly any allegations of deliberate physical ill-treatment of prisoners by staff. That said, the Committee highlights in its report a number of principles and minimum standards which should be complied with on those rare occasions when means of restraint have to be applied to a prisoner. The delegation found evidence of inter-prisoner violence and intimidation at Litla-Hraun Prison and, to a lesser extent, at Akureyri and Kópavogur Prisons. At Litla-Hraun, prisoners from certain categories were afraid of their fellow inmates, and several of them refused to leave their wing in order to take outdoor exercise or participate in organised activities. The CPT has made recommendations aimed at addressing this problem.

The CPT strongly encourages the Icelandic authorities to pursue the project to build a new remand prison in Reykjavík; this would allow all remand prisoners from the capital area to be accommodated closer to their families, and make it possible to offer them an appropriate range of activities. The CPT has also noted with interest the plans to set up a centre specifically designed for persons detained under aliens legislation, thereby avoiding the current situation of such persons being held in prison. The Committee has stressed that the future centre should offer material conditions and a regime of activities which reflect the legal status of the detainees and should be staffed by suitably qualified personnel.

Material conditions of detention at Litla-Hraun, Kópavogur and Akureyri Prisons remained generally of a high standard. However, the CPT has called for further efforts to be made to develop programmes of activities for inmates in the three establishments. Further, specific recommendations are made in order to improve the conditions of detention of remand prisoners held at Akureyri Prison.

Concerning prison health-care, the situation was generally good and in compliance with the principle of equivalence of care. However, the CPT has recommended steps to ensure the systematic medical screening of newly-arrived inmates and the proper recording and reporting of injuries observed on inmates (whether on arrival or at a later stage). Access for prisoners to psychiatric and psychological assistance also needs to be improved.

The CPT's delegation heard no allegations of ill-treatment of patients by staff in any of the psychiatric establishments visited; it was clear that staff were committed to the patients' welfare and had a caring attitude towards them. Moreover, patients' living conditions and treatment were satisfactory, with the exception of a lack of guaranteed daily outdoor exercise for all patients at the psychiatric ward of Akureyri Hospital and at the secure ward of the Psychiatric Department of Reykjavík National University Hospital. The CPT's main concern in this area relates, as previously, to the absence of comprehensive mental health legislation; the current legal framework is at best incomplete and obliges the management and staff of the institutions to improvise and fill in the gaps. The Committee calls upon the Icelandic authorities to carry out a thorough review of the current mental health legislation, as regards both civil and forensic patients.

In their response, the Icelandic authorities acknowledge many of the issues raised by the CPT and refer to various measures (planned or already taken) to address them e.g. the construction of a new prison in Reykjavik, guaranteeing the provision of daily outdoor exercise for all prisoners and psychiatric patients, and the review of mental health legislation.

#### **Council of Europe Commissioner for Human Rights**

In a [substantive press release](#) after his visit to Iceland in February 2012, the Commissioner for Human Rights calls for the adoption of comprehensive equal treatment legislation protecting vulnerable groups (people with disabilities, older persons, members of ethnic and religious minorities, transgender persons), while inviting the authorities to set up an effective and independent national equality body to promote its implementation. Furthermore, the Commissioner points to the need for additional efforts to combat violence against women and trafficking in human beings, also underlining the particular vulnerability of children with disabilities, a group that should not be subjected to budgetary savings in the aftermath of the financial crisis. Finally, the Commissioner invites the Icelandic authorities to address xenophobia through awareness-raising measures in education and the media, while applying effectively existing legislation against hate speech.

#### **Fight against racism and intolerance (ECRI)**

On 21 February 2012, the European Commission against Racism and Intolerance (ECRI) published its [fourth report on Iceland](#).

The report welcomes progress since its [third report](#) on the country. For example, bills on the integration of immigrants, and a general anti-discrimination bill, are being prepared, and legislation has been introduced or amended to make provision for pupils whose mother tongue is not Icelandic and to remove the minimum age requirement for residence permits for spouses in family reunification cases. ECRI notes that efforts have also been made to improve the asylum system, such as entitlement of asylum seekers to an interview with immigration officers following an interview with police, and the introduction of safeguards for unaccompanied minors.

However, despite the positive developments, ECRI notes in the report that there remain some issues of concern. For example, Iceland has no specialised body to combat racism and discrimination, and the main information centre providing assistance and services to immigrants is difficult to access. There is no possibility for asylum seekers to appeal to an independent and impartial judicial mechanism empowered to consider the merits of the case, and the repeated commission of certain petty offences can definitely exclude a person from obtaining Icelandic citizenship. Children also remain a concern: pupils of immigrant background have a significantly higher dropout rate from secondary school than Icelandic pupils, and not all children in the asylum procedure have access to compulsory school education.

To address these concerns, there are a number of recommendations from ECRI contained in the report. In particular, three recommendations are the subject of an interim follow-up procedure. A [report](#) on the progress on the implementation of these recommendations was published on 24 February 2015. The first recommendation strongly urges the authorities to grant permission to build mosques and allocate land to them for this purpose. The interim follow-up report notes that the recommendation has been implemented: land and permission to build has been granted to the Muslim Association of Iceland. However, this was not without controversy: there was opposition from politicians and citizens, and the authorities are insisting that the future mosque be shared with the other Muslim group in Iceland. Secondly, ECRI strongly encourages the authorities to complete the work on an antidiscrimination bill. Although draft legislation is being prepared, the bills have not yet been completed and therefore this recommendation is considered as yet to be implemented. The final recommendation is a repeat of a suggestion previously-made that the authorities introduce a criminal law provision “that expressly considers the racist motivation of an offence as a specific aggravating factor”. Although the issue will be referred to the Government’s Standing Committee on Criminal Matters, no change in the law has been forthcoming, and ECRI concludes that this recommendation also remains unimplemented.

Links to ECRI reports and interim follow-up conclusions can be accessed under: [https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Iceland/Iceland\\_CBC\\_en.asp](https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Iceland/Iceland_CBC_en.asp)

## **Protection of minorities**

### *Framework Convention for the Protection of National Minorities*

Iceland has signed but not yet ratified the Framework Convention for the Protection of National Minorities. For this reason, it is not concerned by the monitoring procedure undertaken by the Council of Europe Advisory Committee on this Convention.

### *European Charter for Regional or Minority Languages*

States such as Iceland on whose territory no traditional minority languages are used are invited to follow the example of Liechtenstein and Luxemburg and ratify the European Charter for Regional or Minority Languages (ECRML) as an act of solidarity, as recommended by the Committee of Ministers of the Council of Europe in 2015.

## Action against trafficking in human beings (GRETA)

On 23 September 2014, the Group of Experts on Action against Trafficking in Human Beings (GRETA) published its [report](#) concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Iceland, in the context of GRETA's first evaluation round.

The report considers that, despite the fact that the Icelandic authorities have taken a number of important steps to prevent and combat trafficking in human beings (such as adopting two national action plans and setting up structures to ensure the co-ordination of their implementation), there still remains room for improvement and further action by the Icelandic authorities. For example, GRETA recommends that the Icelandic authorities take further steps to involve civil society in the development, implementation and evaluation of anti-trafficking policy, and that the focus of this policy be widened to include trafficking for the purpose of labour exploitation.

GRETA also urges Iceland to carry out information and awareness-raising campaigns on trafficking and to integrate the prevention of human trafficking in the policies for unaccompanied children, migrant workers and asylum seekers. The Icelandic authorities are also urged to remedy the absence of a victim identification procedure which is independent of the criminal justice process and the lack of a centralised data collection system. These deficiencies make it difficult to assess the scale of human trafficking in Iceland: there has only been one officially-recognised victim of trafficking in the country.

Finally, in terms of support to victims, GRETA urges the Icelandic authorities to provide suitable accommodation for all victims, to ensure access to education, vocational training and the labour market where appropriate, to ensure that all possible victims of trafficking are offered the six-month "recovery and reflection" period and that victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit.

[http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA\\_2014\\_17\\_FGR\\_ISL\\_w\\_cmnts\\_en.pdf](http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2014_17_FGR_ISL_w_cmnts_en.pdf)

[http://www.coe.int/t/dghl/monitoring/trafficking/Docs/CommitteeParties/Recommendations/CP\\_2014\\_15\\_ISL\\_en.pdf](http://www.coe.int/t/dghl/monitoring/trafficking/Docs/CommitteeParties/Recommendations/CP_2014_15_ISL_en.pdf)

## Preventing and combating violence against women and domestic violence

Iceland has signed but not yet ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. For this reason, it is not yet concerned by the monitoring procedure under this Convention.

## Fight against corruption (GRECO)

On 28 March 2013, the Group of States against Corruption (GRECO) adopted its [fourth evaluation report](#) on Iceland. The theme for the evaluation was "corruption prevention in respect of members of parliament, judges and prosecutors". The report notes the specific challenges of Iceland as a state with a small population size and relative geographical isolation. In particular, it notes that the collapse of

Iceland's banking system in 2008 drew attention to the recurring issue of the "extensive personal and professional relationship networks that exist and therefore permeate the institutions of government and decision making."

However, the situation is generally positive: the report notes that tools have been developed to increase transparency in parliamentary system as well as the activities of its individual members. Steps have also been taken to improve transparency in the judiciary, and both the judiciary and prosecutors are of a high standard and are clear on the rules guiding them in specific areas that may give rise to corruption (such as bans on additional activities).

Despite this positive assessment, GRECO makes ten recommendations to Iceland concerning members of parliament, judges and prosecutors. The implementation of these recommendations is examined in GRECO's [compliance report](#), published on 1 April 2015. The report concludes that none of the ten recommendations has been satisfactorily implemented or dealt with in a satisfactory manner by Iceland. Two recommendations have been partly implemented. GRECO considers this state of affairs "globally unsatisfactory" and therefore asks the Head of Delegation of Iceland to the Council of Europe to provide a report on the progress in implementing the recommendations as soon as possible.

The previous evaluation round of GRECO, which had as its themes "Incrimination" and "Transparency of Party Funding" culminated in the [addendum to its second compliance report](#), published on 18 October 2013, which found that Iceland had implemented satisfactorily or dealt with in a satisfactory manner all the recommendations contained in the Third Round Evaluation Report.

### Execution of judgments and decisions of the European Court of Human Rights

Currently there is 1 case against Iceland pending before the Committee of Ministers for supervision of their execution. This case concerns the violation of the applicant's right to a fair trial on account of the unjustified lack of an oral hearing before the Supreme Court. It does not reveal any structural or complex problems.

### Social and economic rights

As indicated in the [country factsheet](#) providing an overview of the accepted provisions of the Social Charter, Iceland ratified the 1961 European Social Charter on 15/01/1976. It has not yet ratified the Revised European Social Charter, nor has it signed or ratified the Additional Protocol of 1995 providing for a system of collective complaints.

The monitoring of the implementation of the European Social Charter by the European Committee of Social Rights (ECSR) is thus based on the evaluation of national reports provided by the Icelandic authorities on accepted provisions belonging to thematic groups (thematic monitoring cycles).

In its 2012 conclusions covering the reference period 2007-2010 regarding the accepted provisions relating to Thematic Group 1 “*Employment, training and equal opportunities*” (Articles 1, 15 and 18 of the 1961 Charter), the ECSR underlines the inadequacy of legislation prohibiting discrimination in employment on grounds other than sex (Article 1§2), while pointing to the absence of legislation prohibiting discrimination in education, training and employment on the ground of disability (Articles 15§1, 15§2). Its fourth conclusion of non-conformity concerns the lack of simplified formalities for issuing work and residence permits (Article 18§2).

Covering the reference period 2008-2011, the 2013 conclusions by the ECSR on the accepted provisions relating to Thematic Group “*Health, social security and social protection*” (Articles 3, 11, 12, 13, 14) contain a single observation of non-conformity, pointing to the absence of equal treatment with regard to social security rights to nationals of all other States Parties.

Several conclusions of non-conformity are contained in the 2014 conclusions on the relevant provisions relating to Thematic Group “*Labour Rights*” (Articles 2, 4, 5 and 6), covering the period 2009-2012. The ECSR identifies situations of non-conformity regarding excessive working hours for seamen (Article 2§1), unreasonable notice periods for termination of employment (Article 4§3), the lack of a fair remuneration for workers with the lowest wages (Article 4§5) as well as infringements to the right not to join trade unions (Article 5).

## Venice Commission

The [Opinion on the Constitutional Bill for a new Constitution for the Republic of Iceland \(CDL-AD\(2013\)010\)](#) was requested by the Chair of the Constitutional and Supervisory Committee of the Parliament of Iceland in November 2012.

The bill reflected an option for a strong parliamentary regime associated with a complex set of mechanisms aimed at enabling an increased direct participation of citizens in decision making. However, while in itself such a model might be deemed suitable to the specific context in Iceland, its translation in legal and constitutional terms raised certain concerns. Numerous provisions were too vague and broad, entailing the risk of serious difficulties of interpretation and application.

Furthermore, in the Commission’s view, the complex institutional system proposed by the bill appeared too complicated and marked by lack of consistency, both as regards the powers, the interrelations and the balance between the main institutions – parliament, government and president – and the mechanisms of direct participation that it introduced. A careful review of the relevant constitutional provisions, both from a legal and political perspective, was recommended by the Commission. Similar recommendations had been formulated in relation to the proposed electoral system, which too was excessively complicated. According to the Commission, the human rights chapter of the bill, introducing guarantees for a wide range of fundamental rights and freedoms, including socioeconomic rights and “third generation” rights, also needed clarification, as did the immovability of judges and the independence of prosecutors, the transfer of state powers and the place of international norms in the domestic legal system.

As a follow-up to this opinion, a simplified procedure for constitutional revision was adopted, requiring, in line with the suggestion of the Venice Commission, the involvement of one parliament only, followed by approval by referendum, instead of – as was previously required for any constitutional amendment – adoption by two successive parliaments.

The opinion was adopted at the March 2013 session.