

## Universal Periodic Review for Iceland

Written joint submission from stakeholders:

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## **1. Equality and non-discrimination**

Icelandic legislation mostly covers discrimination on gender-based grounds. As ECRI has pointed out, there is no “comprehensive civil and administrative body of anti-discrimination legislation in Iceland covering all fields of life, from employment to education, housing, health, etc.” and the only anti-discrimination legislation regarding sexual orientation and gender identity is the legislation on goods and services. The human rights chapter of the Constitution does not mention sexual orientation, gender identity, or sex characteristics.

## **2. Hate crime and hate speech policies**

While the law on hate crime and hate speech does mention sexual orientation and gender identity, it does not refer to sex characteristics, which would protect intersex people. Furthermore, there is no official national policy or action plan against hate crimes and hate speech.

On April 27th 2015, Samtökin '78 reported seven incidents of hate speech to the Reykjavík Metropolitan Police. The NGO filed charges against ten individuals under article 233(a) of the Penal Code, which protects people against hate speech. Björg Valgeirsdóttir, attorney at law, has handled the cases on behalf of Samtökin '78. The bias-motivated remarks were made on social media after the Hafnarfjörður town council decided to cooperate with Samtökin '78 on classes for both teenagers and teachers about LGBTQIA identities and rights. In September, Reykjavík Metropolitan Police declined to investigate the allegations. On 7 October, Samtökin '78 filed a formal complaint on this decision to the State Prosecutor. The State Prosecutor's Office responded on 10th of November and instructed the police to launch an investigation. This investigation is currently ongoing.

Ms. Valgeirsdóttir and Samtökin '78 have pointed out that the police's original decision to dismiss the charges without investigation stands in clear contrast to the severity of the remarks. The decision also serves to minimize trust in the police amongst those societal groups targeted by hate speech.

On the bright side, the Reykjavík Metropolitan Police has recently appointed one of their officers as a specialist in hate crimes and hate speech. The aim is to make the Reykjavík Metropolitan Police more capable of dealing with these kinds of crimes, make statistics on hate crime and hate speech more accurate and build partnerships with relevant NGOs and societal groups. This is a crucial positive step towards taking these matters more seriously.

## **3. National curriculum and LGBTQIA+ education in schools**

New national curriculum guides for preschools, compulsory schools and upper secondary schools were launched in 2011. For the past years, schools have thus been adapting to the new guidelines. An increased emphasis was put on equality, feminism, and queer studies in all of the three guides compared to older guides. These three school levels are now obliged to teach about LGBTQIA+ identities and rights but also to take notice of diversity among the students when designing study methods and the learning environment.

These new guidelines are thus a significant and important positive step towards more inclusive education and more awareness of LGBTQIA+ issues in the school system.

However, the implementation of these matters has not been very effective. The schools are underfunded, and the main emphasis seems to lie in literacy and other “measurable” subjects.

In the experience of Samtökin '78, the effort schools put into educating their staff and their students about LGBTQIA+ issues is dependent upon the interest and capability of individual teachers. Typically the schools start implementing equality education once there is a student with LGBTQIA+ identity at the school.

The result is that some schools are doing an excellent job while others do little or nothing. Recently interest has been sparking in more and more schools and municipalities. Samtökin '78 provide lectures both for teachers and students, and the demand for these lectures has risen over the past years. This is a positive development. Increased funding for schools to educate their staff about LGBTQIA+ is needed, however, as is a clear policy from local school authorities stating that equality education is a mandatory, rather than optional, component of school curricula.

#### **4. LGBTQIA+ asylum seekers**

Over the last three years, Iceland has seen a rapid rise in numbers of people seeking asylum, including LGBTQIA+ asylum seekers. Samtökin '78 has observed an increase in the number of asylum seekers who approach the organization for social support and help with legal advocacy. We observe a need for our organisation to build partnerships with organisations serving asylum seekers, such as the Red Cross, Directorate of Immigration and Social services in the three municipalities which currently provide social support to asylum seekers. The Directorate of Immigration follows the UNCHR guidelines for claims to refugee status based on sexual orientation and/or gender identity. These guidelines clearly state that training of all staff members, including translators, is essential for being able to follow the guidelines as expected. According to information given by The Directorate of Immigration to Samtökin '78, the directorate, however, offers no such training to its staff.

We have also expressed concerns over the frequent use of the Dublin regulation<sup>1</sup>. Due to Iceland's remote location few asylum seekers are able to come directly to Iceland. This has resulted in high numbers of asylum seekers being sent back to countries they came through, such as Italy. The Ministry of Interiors has ordered that people in vulnerable positions should not be sent back to Italy under the Dublin regulation<sup>2</sup> LGBTQIA+ asylum seekers are, according to The Directorate of Immigration, considered a vulnerable group, but not vulnerable to the extent that they should not be sent back to Italy.

Samtökin '78 condemns this and calls for training of all staff members at The Directorate of Immigration. Samtökin '78 would like to stress the vulnerable position of LGBTQIA+ asylum seekers and insist that their deportation under the Dublin regulation be discontinued.

#### **5. Rights of intersex persons**

- No legislation is in place that protects the rights of Intersex people in Iceland. No protections are to be found, on the basis of sex characteristics in fields of Equality, Non-Discrimination or Hate Crimes and Hate Speech. No physical integrity protections are in place in Icelandic legislation.
- Information found in an interview with the chief Pediatric Endocrinologist at the National Hospital from 2013 states that 2-3 surgical interventions are performed yearly to alter a child's sex characteristics. However in inquiries by the Ministry of Welfares Queer

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<sup>1</sup> See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0031:0059:EN:PDF>

<sup>2</sup> See: <https://www.innanrikisraduneyti.is/frettir/greinargerd-um-endursendingu-haelisleitenda-til-italiu>

committee and questions asked by a member of parliament to the Minister of health, the information provided stated that three intersex children had been born in the country and one adopted to the country in the last decade. All these children faced surgical interventions aimed at “normalizing” their sex characteristics.

- The discrepancy found in the information provided by the doctors, freely to the media in 2013 and then in answers to official inquiries in 2015 leads us to believe that cases where a child's right to physical integrity is breached are severely underreported in Iceland to officials.
- No legal requirement is in place requiring medical professionals to catalog or report medical treatments that permanently alter a child's sex characteristics, and the Directorate General of public health does not collect information on procedures of this nature.
- A person's right to formally report medical misconduct to the Directorate General of Public health is limited to ten years in Iceland. For many Intersex people, this means that the statutes of limitations for seeking redress due to interventions performed on them in childhood have passed when they reach maturity. This leaves Intersex people with no clear options to seek redress within the Icelandic system.
- No specialized psychosocial support networks are to be found in the Icelandic health care system to offer information and support to parents of intersex children. Reports have surfaced in Iceland about parents receiving no support or real information for over nine months after the birth of their intersex child.
- In May 2015, the ombudsperson for children issued a statement condemning non-medically necessary interventions on a child's sex characteristics without informed consent.

## 6. Rights of Trans persons

- Legal gender recognition bound to diagnosis. In order to have your name and gender marker changed to match who you are, you require a diagnosis of gender identity disorder, need to have been in an official transition for at least 18 months and a permit from the medical team at the hospital and the legal committee of the Directorate of Health (both committees bound by law).
- No standards of care. Current legislation has no requirements for any specific standards of care, and the team handling the transition process has no public standards of care, working rules or requirements. They are not required to have any specific expertise, training nor education aside from their general medical expertise. Therefore the transition process is often without consistency, follow-up or proper and respectful language towards trans people.
- Medicalization and diagnosis required. People who want to undergo a transition (including hormones, surgeries or other medical interventions) require a diagnosis of gender identity disorder (Icelandic: *kynáttunarvandí*) which is an outdated form of what is now called gender dysphoria. Gender identity disorder is applied so that the person suffers from a mental disease and therefore requires a diagnosis and treatment as gender dysphoria is described as depression, anxiety or undisputed experience of being in the wrong gender. Therefore treatment is a measure to combat depression and anxiety from being in the wrong gender and not as a cure for a mental disease.

- No legislation for trans youth. The current legislation on health care for trans people does not cover trans youth and the health care services they require. Trans youth can access health care in Iceland, but it lacks professional standards of care, experience and navigation in how to deal with trans youth. Long waiting lists for interviews and hormone blockers, inadequate consulting and socio-support from professionals both for trans youth and their families.
- Outdated concepts and terms. The law only covers binary trans people and has phrasing such as: the other gender, opposite gender and opposite gender role. This is extremely concerning as it shuts out trans people who aren't women nor men (f.ex. genderqueer, non-binary, genderfluid, agender, etc) and also legalizes the term „gender role“ which is an outdated and sexist requirement based on outdated ideas about how women and men behave, dress and so on. Therefore the transition process is not open to gender non-conforming trans people, non-binary trans people and anyone else who falls outside the binary spectrum of women and men.
- Insurance only covers a small part. Insurance only covers the genital surgeries and top surgeries (breast removal). Other surgeries, hair root removal, breast augmentation, facial feminization surgeries and hormones (partly) are not covered and people must be able to afford those on their own, which is not always a reality for people of a low socio-economic status.