

Udlændinge



Styrelsen

Report on fact-finding mission to Iran

9 – 17 September 2000

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1. Introduction and terms of reference

The number of Iranian citizens entering Denmark to seek asylum is relatively large. In 1999, 184 Iranians were registered as asylum seekers in Denmark, compared to 378 in 2000.

In view of this, the Danish Immigration Service had long been keen to undertake a fact-finding mission to Iran in order to update the background information on which the processing of asylum applications is based.

During the visit of the then Foreign Minister, Niels Helveg Pedersen, to Iran in April 2000, the Danish Immigration Service expressed its wish to the Iranian authorities, which subsequently announced that Iran was prepared to receive a delegation from the Danish aliens authorities.

With the assistance of the Ministry of Foreign Affairs and the Embassy in Tehran, a series of meetings was held with representatives of the relevant Iranian authorities, and the visit then took place from 9 to 17 September 2000.

The delegation was well received wherever it went, and the representatives of the Iranian authorities were most cooperative. This made it possible to procure general background information of a more technical and procedural nature.

The terms of reference for the delegation's visit were as follows:

"Procedures for citizenship and ID-card/birth certificate issuance:

Authorities responsible, rules and regulations concerning citizenship, documents required, special rules for women/children/religious minorities, registration systems, documents for refugees and aliens, document fraud etc.

Procedures for issuance of passports:

Authorities responsible, documents required, types of passports, special rules for women/religious minorities, registration systems, documents for refugees and aliens, document fraud etc.

Procedures for issuance of exit visas:

Authorities responsible, documents required, types of exit visa, special rules for women/children/religious minorities, registration systems, refugees and aliens, document fraud etc.

Entry and exit procedures applied at border crossing points:

General procedures, authorities present and responsible, documents required, laissez-passer, exit ban for persons, procedures for entry and exit of wanted persons or criminals, registration systems, refugees and aliens, document fraud etc.

Illegal travel:

Modes and ways of illegal travel, court proceedings, sanctions etc."

According to the terms of reference, the purpose of the visit was therefore to obtain information of a more procedural nature concerning passport, exit and citizenship conditions. However, it also proved possible to raise other issues with the sources consulted during the visit, e.g. concerning legal matters (including the conditions for religious minorities, homosexuals, Kurds, etc.), and hence the report also includes information on such matters. In that connection, it is important to stress that the descriptions provided by no means claim to be exhaustive. They are merely *general* descriptions which, in view of the way in which authority is sometimes exercised in the Middle East, do not preclude that situations may have an outcome different from what is generally anticipated.

In addition to the meetings with the Iranian authorities, the delegation also had an opportunity to discuss some of the aforementioned subjects with representatives of Western embassies and a Western news agency.

The delegation's meetings took place in Tehran and at Mehrabad airport.

A visit to the border control post in Bazargan, on the border between Iran and Turkey, could not be

incorporated into the programme as permission was granted too late.

2. Passports and conditions for entering and leaving the country

2.1 Iranian passports

The delegation met Mohammad Ali Mirkhani, Head of the Passport and Visa Department of the Iranian Ministry of Foreign Affairs. The conditions for issuing Iranian passports were also discussed with the Iranian police force's passport division (Law Enforcement Forces – LEF) at its head office in Tehran.

According to Mohammad Ali Mirkhani, the Iranian police force (LEF) is the authority responsible for issuing passports. According to the LEF, the department has 9 passport-issuing offices in Tehran and a further 49 offices in other cities in Iran.

According to Mr Mirkhani, any Iranian citizen above the age of 18 is entitled to an Iranian passport, but possession of such a passport does not mean that the holder is permitted to leave Iran.

If it is established at the time a passport is issued that the passport applicant has matters to settle with the Iranian authorities, the person concerned will be informed accordingly. At the same time, the applicant will be requested to contact the relevant authority in order to solve the problem. Only once this has been done can the applicant be issued with a passport.

An application form has to be completed when applying for a passport. The details provided on the form must be identical to those which appear on the applicant's Iranian identity card, which must be presented in conjunction with the application. In addition, Iranian men must present a military logbook certifying that they have completed military service.

Any Iranian citizen applying for a passport must come in person to the LEF, both to submit the application form and to collect the passport when it is ready. A passport can be issued within 48 hours of the application form being submitted.

Iranian passports are valid for five years. They can be extended for a further five years. There are no periods of validity other than five years. According to Mohammad Ali Mirkhani, the Iranian authorities are planning to introduce new Iranian passport forms. At present this is scheduled to

take place in March 2002.

A married woman must have permission from her husband before a passport can be issued. The woman's husband must appear before a notary public in order to give his written permission. The woman herself does not have to appear before the notary when her husband gives his permission. Once he has given his permission, the husband does not have to appear before the passport police in connection with his wife's passport application.

Persons belonging to religious minorities are issued with passports in the same way as any other Iranian citizen. Passports do not indicate religious affiliation. However, such information must be provided in the passport application form.

According to a Western embassy contacted by the delegation, there are no problems in connection with the issuing of passports to members of the Iranian Baha'i faith, and passports do not provide information about a person's affiliation to the Baha'i faith.

According to Mr Mirkhani, persons belonging to ethnic minorities do not experience any problems in obtaining Iranian passports as a result of their ethnicity.

Mr Mirkhani also disclosed that records are kept containing information about Iranian citizens who have applied for passports and those who have been issued passports. Those records are confidential.

Passports are issued by Iranian representations outside Iran in cooperation with the Iranian Ministry of Foreign Affairs. The LEF is not involved in such cases.

According to Mr Mirkhani, a fee of around USD 15 is charged for issuing a passport in Iran. Iranian representations outside Iran charge a passport fee of around USD 55 for issuing an Iranian passport.

When asked whether the Iranian authorities had experience of bribes being paid in connection with the issuing of passports, Mr Mirkhani said that he had never seen any reports of bribes being paid in connection with applications for or the issuing of Iranian passports, nor had he ever heard of such

cases.

2.2 Iranian travel documents for refugees in Iran

According to Hojatol-Islam Ebrahimi, Director-General of the Bureau for Aliens' and Foreign Immigrants' Affairs (BAFIA) in the Iranian Ministry of the Interior, the Iranian authorities have been issuing aliens' passports to refugees in Iran since 1999. Such a passport entitles the holder both to leave and re-enter Iran. The alien's passport replaces the former laissez-passer, which entitled the holder only to leave Iran, not re-enter it.

The alien's passport is issued to persons with refugee status in Iran, i.e. persons holding a refugee's identity card. Persons not in possession of such a card can still obtain an alien's passport subject to their application being processed and approved by a special commission.

Hojatol-Islam Ebrahimi emphasised that an alien's passport will not be issued until the Iranian authorities are certain that the person concerned will receive a visa for the country he intends to visit. The alien's passport is valid for one year, and can be extended for a further year.

2.3 Exit visa

According to Mr Mirkhani, an exit visa is stamped into all Iranian passports.

Exit visas are issued at the same time as passports, and hence it is the LEF which is responsible for issuing such permits.

An exit visa can be issued for a single journey or for an unlimited number of journeys during the passport's period of validity.

A single-journey permit is typically issued to young men who have not completed their military service, and to women whose husbands have given them permission to make only one journey. According to a Western embassy, a single-journey permit may be issued to persons who have some outstanding score with the authorities, e.g. tax arrears, provided that a guarantee is provided for the amount outstanding.

According to Mr Mirkhani, exit visas for single journeys indicate that the return journey to Iran must be made within a specifically defined period, typically 3 to 6 months after the outward journey. If the return journey to Iran is made after that period has expired, the person concerned risks reaction from the Iranian authorities unless he can justify his late return. According to Mr Mirkhani, such reprisals probably take the form of fines. For young men of military service age, any exceeding of the period for the return journey will result merely in a requirement to complete their military service. Mr Mirkhani stated that no fines or prison sentences are imposed in such cases.

For exit visas permitting an unlimited number of outward journeys, there is no deadline within which the return trip to Iran must be made. Hence a person holding such a visa can re-enter Iran a year after leaving the country without risking punishment by the Iranian authorities.

According to Mr Mirkhani, if a person permitted to make only one outward journey wishes to extend the period within which he has to return, he can contact an Iranian representation abroad for assistance in the matter.

Mr Mirkhani said that an exit visa is always stamped on page 10 of an Iranian passport.

When asked whether records are kept of persons ineligible for an exit visa, Mr Mirkhani replied that the Iranian police force kept such records.

2.4 Exit procedures at Mehrabad airport in Teheran

The delegation was given an opportunity to visit Mehrabad airport in Tehran. This is Iran's largest airport, and most international air traffic leaves Iran from there.

At the airport there was a high-ranking official from the airport authorities who declined to reveal his identity. Mr Salieh, an expert from the Iranian Ministry of Foreign Affairs, was also present.

When asked which authorities maintain a presence at the airport in connection with entry and exit procedures, the high-ranking official was reluctant to give precise details.

All passengers on international flights are requested to be at the airport 2 to 3 hours before departure.

On arrival at the airport, passengers show their passports and tickets in order to gain access to the departures area. This is done in order to ensure that the persons concerned have valid passports and tickets for the flight in question.

Passengers then arrive at the first baggage inspection point. All baggage is screened and passengers walk through a metal detector. Passports and tickets are also shown at this inspection point.

Once through the baggage inspection point, passengers proceed to the customs area, where baggage is checked manually. These checks aim to prevent the export of items which may not be taken out of the country. Passports are also shown at this checkpoint.

Passengers then proceed to the airline check-in desks, where they present their passports, tickets and baggage. Once their passports and tickets have been checked, they are issued with a boarding pass. All ticket checks are carried out by representatives of the Iranian national airline, Iran Air. However, in the case of flights involving other airlines, representatives of those airlines are present, and some of them carry out visa checks at the check-in desks.

After check-in, passengers go upstairs to the first floor. Here they arrive at the last passport checkpoint, which forms the actual exit control. This is where travel documents are examined in

detail. Two passport inspectors sit in each passport control booth. Each inspector normally has a separate queue to deal with. Passengers can usually stand in either queue without awaiting further instructions from an official.

Once a passenger reaches the passport inspection booth, he gives his passport to the two passport inspectors. Married couples, however, are dealt with together. In the case of Iranian nationals, the information contained in the passport is checked against data stored in a computer system to which the inspectors have access. The data stored in the computer system cover both Iranian nationals and persons permitted to reside in Iran.

According to the passport inspectors and the Iranian police (LEF), this system indicates whether an individual passenger has any unsettled matters with the Iranian authorities. If so, the person concerned is refused permission to leave Iran. However, a person may be permitted to leave the country even if he has such an outstanding matter. In such cases he must present a written order from a judge. Whether an exit permit will be granted depends on the nature of the individual case. Once all formalities have been checked and found to be in order, an exit stamp is inserted in the passport and the passenger can then continue through to the transit hall, where there are tax-free shops, lounges, etc.

There is another security check as passengers leave the transit hall and walk towards the aircraft. Leading up to this checkpoint there is one exit for women and one for men. Hand baggage is screened while passengers approach a booth manned by an official. Here passengers are body-searched before continuing on towards the departure lounge.

When the flight is ready to depart, passengers go up to a desk where the airlines check passports and visas and collect boarding passes. Passengers then proceed straight to the aircraft, either via one of the four air bridges located at Mehrabad airport or on buses which ferry them out to the aircraft.

2.5 Cancellation of exit stamp

When asked what could cause a passenger's exit stamp to be cancelled, the high-ranking official replied that a passenger may change his mind about travelling right up until the moment the

aircraft's doors are closed.

If, having gone through the exit procedures, a passenger decides not to travel after all, he must contact the relevant airline and explain why. The airline will then issue a letter to him on that basis. The passenger presents that letter to the airport authorities, the exit stamp is cancelled and the passenger is then free to leave the airport area.

According to the high-ranking official, the airport authorities can arrest a person wishing to leave the country right up until the moment the aircraft's doors are closed. This can be done only in cases of a serious nature, and only on a written order from a judge. The official had worked at the airport for the past ten years and had never witnessed or heard of any such cases.

2.6 Exit ban

The delegation had an opportunity to discuss issues relating to exit bans for Iranian nationals with the passport division of the Iranian police (LEF).

According to the LEF, an exit ban may be based on either financial circumstances (e.g. tax arrears) or criminal acts. If a person has outstanding debts, the Iranian Ministry of Finance or the Iranian National Bank (Bank Melli Iran) has the authority to issue an exit ban. In the case of criminal acts, the courts have such authority. A judge then decides whether the criminal act is of such a nature that an exit ban should be issued. If so, the judge issues a written order to that effect.

In cases where an exit ban is issued, the person concerned will not automatically be informed of that fact. He will know about it only when he tries to leave the country legally, unless he himself does not have any contact with the Iranian authorities in that connection (see below).

In cases where an exit ban is issued, the issuing authority will notify the Iranian police of that fact. The police force is the enforcing authority. Information about exit bans is stored in a computer system. Such information is accessible to the passport control authorities at 48 border crossing points, and all crossing points have access to the same information.

On the basis of the information notified to the police by the authorities responsible for issuing travel bans, the computer system is updated every day at 14.00, except at weekends and on public holidays.

The updating is carried out at the LEF's headquarters in Tehran. There are another five centres scattered around the country, which always have access to the same information as the headquarters in Tehran. Hence a border crossing point which might be having problems with retrieving data from its own computers can always contact the headquarters or one of the five other centres in order to obtain updated information.

The information stored in the computer system does not provide details of the grounds on which an exit ban was issued. It only confirms whether the person concerned should be arrested or have his passport confiscated. According to the LEF representative, if the passport contains an exit stamp, the person concerned cannot be prevented from leaving the country. Only if he later decides not to travel will the exit stamp be cancelled (see section 2.5).

If the computer system contains information to the effect that a person should be arrested, this means that the circumstances on which the exit ban is based are of a serious nature. In the case of information to the effect that a person's passport should be confiscated, a letter will be issued requesting the person concerned to contact the Iranian authorities in order to settle the matter. As soon as the dispute with the authorities has been resolved, the travel ban will be lifted and the passport returned to the person concerned, and he will then be able to leave the country.

According to the LEF's passport division, an Iranian national can himself contact the police in order to find out whether he is subject to an exit ban. If so, he himself can pursue the matter, and once the problem is resolved the exit ban will be lifted and he will be able to leave the country.

An exit ban applies only to the person in respect of whom it is issued, not to his family, provided that the members of his family have separate passports. This means that if an entire family is included in the passport held by the person covered by the exit ban, none of the members of that family can leave the country.

If a person is covered by an exit ban and his passport is confiscated as he attempts to leave the

country, no indications concerning the ban will be entered in his passport.

A person who has been given a suspended sentence may leave the country legally if no exit ban has been issued. In such instances a judge will decide whether or not an exit ban should be issued on the basis of the nature of the case.

The LEF emphasised that the presence of an exit stamp in an Iranian national's passport means that the person concerned has no matters outstanding with the Iranian authorities, and that any exit ban which might have been imposed on him has been lifted following the settlement of the outstanding business – whether financial or criminal – with the Iranian authorities.

2.7 Entry procedures at Mehrabad airport in Tehran

According to the high-ranking airport official, passengers pass through passport control after disembarking from the aircraft on arrival in Teheran. For Iranian nationals, the checks relate to whether they have any outstanding business with the Iranian authorities. This is done using the same computer system as that used during the departure checks.

According to the official, if a person entering Iran has matters to settle with the authorities, the following may happen depending on the nature of the case:

- the person concerned may be arrested on the spot,
- the person concerned may have his passport confiscated, whereupon a letter will be issued requesting him to contact the authorities in order to resolve his problem. He will not be given back his passport until his problem with the authorities has been resolved,
- Once all formalities have been completed and found to be in order at passport control, the passenger may continue on through customs control and then leave the airport area.

2.8 False travel documents

When asked whether the Iranian authorities are able to comment on the extent to which false

documents are used in Iran, Mr Mirkhani could not provide any details. Although he stressed that the authorities are aware of the use of false travel documents by Afghan and Iraqi nationals, he was unable to provide any more details.

According to the high-ranking official at Tehran airport, the passport control authorities have technical equipment for scrutinising travel documents in cases of suspected forgery. He also drew attention to the human expertise which the passport control authorities have developed at the airport.

According to several representatives of the Iranian authorities, the Australian authorities had visited Iran to teach the border control authorities about travel documents and about methods of detecting such false documents.

According to an embassy, it had on several occasions received enquiries from the passport control authorities at Mehrabad airport requesting an opinion on certain travel documents which the Iranian authorities suspected to be false. The same source added that there have been cases of forged documents being falsely certified.

3. Conditions of citizenship

The delegation met Ahmad Sobhani, Ambassador and Head of the Department of Citizenship and Refugee Affairs in the Iranian Ministry of Foreign Affairs, who answered questions relating to Iranian citizenship legislation.

By way of introduction, Ahmad Sobhani said that any person born of Iranian parents is an Iranian citizen. Whether the person in question was born inside or outside Iran is of subsidiary importance in that respect. However, the birth must be registered with the authorities in order for an Iranian identity card to be issued. If a child is born outside Iran, his birth must be registered at an Iranian embassy.

A child born of an Iranian mother who is married to a non-Iranian father is regarded as having the same nationality as his father. If the child is born in Iran, he may be granted Iranian citizenship after residing in Iran for 18 years.

A child born in Iran of parents of unknown identity will be an Iranian citizen.

If a child is born in Iran of an Iranian mother outside marriage, he will be regarded as an Iranian citizen if his father is an Iranian citizen. However, the child's identity card will contain his mother's family particularly. In cases where the child's father is not an Iranian citizen, the Iranian authorities will regard the child as having the same nationality as his father.

According to Ahmad Sobhani, an Iranian woman who gives birth to a child out of wedlock in Iran may be held criminally responsible for such an act. The relationship in question may be regarded as constituting infidelity, and thus liable to punishment. Ahmad Sobhani stressed that a relationship between two unmarried persons will not be dealt with as severely as a relationship in which either or both of the partners is married to someone else. If the parents marry after the birth, this may resolve the problems with regard to the Iranian authorities, there being no liability to punishment, provided that the marriage is registered with the authorities. No distinction is made between marriages contracted inside or outside Iran. If the marriage takes place outside Iran, it may be

registered by contacting an Iranian representation.

A foreign woman who marries an Iranian citizen automatically acquires Iranian citizenship.

A person may apply for Iranian citizenship after residing in Iran for five years. According to Ahmad Sobhani, however, it is difficult to acquire Iranian citizenship on application despite this rule.

A person who was born in Iran and who is not an Iranian citizen by birth can acquire Iranian citizenship on reaching the age of 18. An application must be made, and it is a prerequisite for the processing of the application that the applicant does not leave Iran between the ages of 18 and 19. The Iranian police force will check whether the person concerned has left Iran during that period.

When asked whether a refugee residing in Iran can apply for Iranian citizenship, Ahmad Sobhani said that if the person concerned has refugee status in Iran, he can apply for citizenship. However, he stressed that it is extremely difficult for a refugee to acquire Iranian citizenship. This was confirmed by Hojatol-Islam Ebrahimi.

The circumstances are somewhat different if the refugee can prove that his father or paternal grandfather is of Iranian origin. There is no problem in acquiring Iranian citizenship in such cases. According to Ahmad Sobhani, around 5 000 persons acquired Iranian citizenship in that way in 1999. Whether the applicant is male or female makes no difference in such cases.

When the delegation asked whether a person can change his name in connection with acquiring Iranian citizenship, Ahmad Sobhani replied that this is possible but not easy to do.

Ahmad Sobhani did not answer the delegation's question as to whether the Iranian authorities maintain a central register of applications for and accordances of Iranian citizenship. All he would say was that applicants' names are recorded – without further elaboration. He added that it was possible to ask the Iranian authorities whether an individual had applied for and been granted Iranian citizenship.

Formal responsibility for processing applications for Iranian citizenship lies with the Iranian Government. The Iranian Ministry of Foreign Affairs has the authority to process and decide on

such applications.

Applications for Iranian citizenship must be submitted to the Iranian Ministry of Foreign Affairs. If the applicant resides outside Tehran, the application is submitted to the branch of the Ministry of Internal Affairs in his place of residence, which will forward the application to the Ministry of Foreign Affairs in Teheran. Applications from abroad must be submitted via an Iranian representation. The fee for an application submitted in Iran is around USD 10-20 (USD 30-40 for an application submitted from abroad).

When processing an application, the Iranian authorities examine the person's circumstances outside Iran, *inter alia* via Interpol.

If an application for Iranian citizenship is approved, the individual concerned must go in person to the Iranian Ministry of Foreign Affairs. He will then be sent to the Ministry of Internal Affairs, where he will swear an oath and take a language test.

Dual nationality is not permitted in Iran. If a person wishes to retain his other nationality, he must surrender his Iranian citizenship. If he does not do so, the Iranian authorities will regard him as an Iranian citizen and he will be entitled to an Iranian passport and identity card. According to a Western embassy, in practice it is virtually impossible to surrender Iranian citizenship. According to Ahmad Sobhani, an Iranian woman cannot change her Iranian citizenship unless her Iranian husband does likewise.

A request for the suspension of Iranian citizenship cannot be approved if the person concerned is below the age of 25, or if he has matters outstanding with the Iranian authorities.

When entering Iran, a person who has surrendered his Iranian citizenship will be treated in exactly the same way as any other foreigner.

A person who has surrendered his Iranian citizenship may at any time apply for his citizenship to be reinstated.

4. Legal conditions

4.1 Judicial system

The delegation met Dr Shariatbagheri, Director-General of the International Office of the Iranian Courts, who explained the structure of the court system. By way of introduction, Dr Shariatbagheri said that the court system was an independent body in Iranian society.

There are several types of courts which rule on cases in the first instance:

- the Public Courts
- the Islamic Revolutionary Courts
- the Military Courts
- the Press Courts
- the Special Clerical Courts.

The Public Courts handle civil cases and those criminal cases which do not come under the jurisdiction of the Revolutionary Courts. The Revolutionary Courts have limited jurisdiction and deal only with cases concerning internal and external security, drug offences, economic crime and crimes against God and humanity (corruption on earth), e.g. blasphemy. The Military Courts deal with cases involving military personnel, the police force and Revolutionary Guards, while the Press Courts handle cases brought against editors, publishers, journalists and authors. The Special Clerical Courts deal with cases involving clerics and cases concerning religious matters. According to Dr Shariatbagheri, the Special Clerical Courts are not part of the standard court system in Iran and are not provided for in the constitution.

The courts of appeal for the Public Courts are the Review Courts. There is no corresponding court of appeal for the Revolutionary Courts, but a judgment handed down in the Revolutionary Courts may be appealed against in the Supreme Court, depending on the length of the sentence.

The Supreme Court is the court of appeal for cases of a serious nature. Cases of a less serious nature cannot be brought before the Supreme Court.

Cases in the Public Courts are tried and arbitrated by a single judge, while the Review Courts and the Supreme Court constitute collegiate courts consisting of three judges.

The Prosecutor General and the Head of the Supreme Court must have a religious as well as a judicial training. It has recently become compulsory for all judges in the Public Courts and Revolutionary Courts to have a judicial training.

According to a Western embassy, the judge is normally also the prosecuting counsel.

4.2 Issuing of legal documents

4.2.1 Summonses

According to Dr Shariatbagheri, an attempt is always made to deliver a summons to appear before a court to the addressee in person. If the person concerned is not there, however, the summons may be delivered to a family member. If there is nobody present who can accept the summons, it is taken back to the court, where the judge decides whether an attempt should be made to arrest the person concerned. Such a decision depends on the nature of the case. However, a person may not be arrested without a written order from a judge.

4.2.2 Arrest warrants

Dr Shariatbagheri added that the Public Courts have the power to issue arrest warrants in all types of cases unless the case in question falls under the jurisdiction of the Revolutionary Court. The arrest warrant is sent by the Public Court to the relevant police station, which is responsible for arresting the person concerned. The arrest warrant is shown to the person under arrest but not served. It is subsequently returned to the issuing court.

Forms used for issuing arrest warrants are printed at a special government printing house. The form is completed by hand and contains the following information about the person under arrest:

- First name and surname
- Address

- Occupation
- Father's name
- ID-card number

Once it has been completed, the form is stamped and signed by the court. Only one arrestee can be covered by the form. The reason for the issuing of the arrest warrant is not normally stated.

4.2.3 Pronouncements of sentences

According to Dr Shariatbagheri, it is the individual judge who decides on sentencing on the basis of the provisions of the Iranian Penal Code concerning the maximum and minimum punishments for an offence. In cases where several persons commit the same offence and where the circumstances surrounding the offences are the same, the sentence passed will also be the same, although case law is not generally accessible and is not a source of law.

If the person concerned is present in court, the judge will pronounce sentence on him. The person concerned is entitled to receive the judgment in writing, and also has the right to take a position on whether the judgment will be appealed against. If he does not appear in court for the pronouncement of the sentence, the judgment will be forwarded to him.

According to Dr Shariatbagheri, a sentence of death cannot be passed unless the person concerned is present in court. A sentence of death may be passed in homicide cases, drug-related cases and in cases where persons have committed acts which impinge upon the security of the Iranian state.

Dr Shariatbagheri emphasised that sentences of death are rare in Iran.

5. Minority groups

5.1 Members of Christian communities

By way of introduction, a Western embassy contacted by the delegation said that the number of persons belonging to the religious minority groups was steadily decreasing. According to the source, there were 350 000 Christians in Iran at the beginning of the revolution, while at present there were only 150 000. This decline was due to the large-scale emigration of Christians – emigration which continued to take place to this day. Persons belonging to the Armenian church constituted the largest group of Christians in Iran, with 100 000 members.

The source expressed concern about the large-scale emigration of Christians from Iran. It resulted *inter alia* from increasing uncertainty about the continued existence of the Christian community in Iran.

Persons belonging to the religious minorities who currently wish to emigrate from Iran are primarily Armenian Christians, Iranian Jews and persons belonging to the Iranian Baha'i community. Many such persons wish to travel to the USA or Canada, where there are already large Armenian and Jewish communities. Some such emigration appears to take place in an organised form. An agreement has been concluded between the Austrian authorities, ICRC, Caritas and the Iranian Baha'i community permitting individuals to enter Austria, where they can stay for a period of 3 to 6 months. The persons concerned pay a sum of USD 3 000 in advance to cover the costs associated with their period of residence in Austria. Their applications to enter the USA or Canada are processed while they wait in Austria. If an application to enter either of those countries is refused, the person concerned must leave Austria before his visa expires.

As regards the situation for religious minorities in Iran, the source stated that it may be described as better than before despite the fact that the Iranian authorities still discriminate against those minorities. In that connection, the source stressed the importance of distinguishing between the persecution which took place just after the revolution and the discrimination which takes place today.

Under the Iranian constitution, there is freedom of religion in Iran for Muslims, Jews, Christians

and Zoroastrians. Baha'ists do not enjoy such freedom. Both Christians and Jews have their own seats in the Iranian parliament, the Majlis. According to the source, however, Christians are regarded as second-class citizens and do not have the same opportunities for education and employment as other Iranians. With regard to employment in public enterprises, for example, preference is given to Iranian Muslims. Job opportunities for the religious minority groups lie within the private sector.

There are Christian schools in Iran at present, run by the Christian churches. It used to be mandatory for the principals of such schools to be Muslims. This situation has now changed in that, since the school year which began in the autumn of 2000, Christian schools have been able to appoint principals from the Christian churches which run the schools.

With regard to Armenian Christians, the source stated that such persons are not in conflict with the Iranian authorities and thus have nothing to fear. It may be added that there are Armenian businesses in Tehran displaying signs in both Farsi and Armenian.

The source was of the opinion that if a criminal case is brought against a Christian in Iran, the church leaders will have knowledge of that case. This is because family members of the person against whom such a case is brought will contact those leaders with information about the case.

5.2 Members of the Baha'i community

According to a Western embassy familiar with the Iranian Baha'i community, persons who belong to that community do not have fundamental civil rights in Iranian society. Members of the community are not publicly registered and therefore do not possess Iranian government documents such as Iranian identity cards. Marriages between members of the Baha'i community cannot be registered with the Iranian authorities. The only document which may be issued to a Baha'ist is an Iranian passport. However, the passport does not contain any information about the person's religious affiliation.

According to a source connected with the Iranian judicial system, members of the Iranian Baha'i community cannot be said to have problems with the Iranian authorities to the same extent as they had in the period just after the revolution, when Baha'ists were persecuted for their faith. However,

the source stressed that the Baha'i leaders are under surveillance by the Iranian authorities.

According to the Western embassy, the Iranian authorities do not talk about Baha'ists or about criminal cases against members of the community. The Iranian Supreme Court has confirmed sentences of death on four Baha'ists. Those sentences are awaiting execution. Another Baha'ist was released from prison in June/July 2000 for reasons which were not explained.

Baha'ists are not covered by the public education system. In spite of that fact, the Western embassy said that Baha'ists are generally well educated. Such education takes place privately within an informal system. The Baha'ists do not have permanent schools and their places of education change as necessary. According to the source connected with the Iranian judicial system, Baha'ists do not have access to the Iranian universities if they state that they belong to the Baha'i community.

With regard to employment, Baha'ists cannot obtain employment in public enterprises. They make a living by commercial activities and by working for private firms.

Baha'ists are not permitted to proselytise. They therefore practise the Baha'i religion in private.

5.3 Converts

Conversion from Islam to another religion is forbidden under Iranian law and can lead to the death penalty.

In that connection, a Western embassy said that there had been no reports of persons being executed on the grounds of conversion from Islam since 1994. In the source's opinion, although a convert may still be sentenced to a term of imprisonment if the authorities hear about his conversion, it is very rare nowadays for a criminal case to be brought against a convert. The source stressed that converts often remain Muslim for official purposes.

The source thought that converts who are known to the Iranian authorities are summoned to an interview at the Ministry of Information in order to be reprimanded. They are then allowed to go after being warned not to talk about what has taken place at the Ministry. If a criminal case is brought against them, they will be accused of something other than conversion.

Many individuals try to convert with a view to emigrating, considering that the opportunities for obtaining asylum in the West are thereby greater.

The Christian churches send letters of recommendation to converts and other persons belonging to the church on request. The source stressed that such letters are issued only to persons known to the church. The letters of recommendation may be authenticated by the individual churches. In that connection, the source considered that 80 to 90% of the letters of recommendation presented in the West by the Armenian church are false.

In Iran, conversion is a lengthy process. A person who contacts a Christian church is told that the church is open to him, and that he must become conversant with the Christian scriptures and take part in church activities. After a few years, the candidate may be baptised.

According to the source, the churches with which he was acquainted are cautious about accepting converts. A person may be baptised after careful consideration, and the baptism ceremony will take place in strict secrecy. According to the Western source, the Armenian, Assyrian and Chaldean churches do not accept converts, whereas the Protestant churches and the "Assembly of God" church do. According to another Western source, those churches also actively proselytise.

According to one of the Western sources, marriages between converts and persons born Christian are generally not accepted by the Christian community.

5.4 Kurds

The delegation briefly discussed the situation for Kurds in Iran with representatives of a Western embassy in Tehran.

According to the source, there is Kurdish opposition to the Iranian government in the northern regions of Iran. Such opposition is expressed primarily by the activities of the Kurdish Democratic Party of Iran (KDPI). In that connection, the source referred to disturbances and demonstrations in the Kurdish part of Iran. In February 1999 there were massive demonstrations in northern Iran in connection with the case in Turkey against the PKK leader Abdullah Öcalan, and disturbances took

place in Ardebil in connection with the parliamentary elections in February 2000, when the names of all the registered candidates were crossed out.

The authorities discriminate against Kurds. According to the source, one example of such discrimination is the fact that the Kurdish language cannot be used in schools.

However, the source did not think that Iranian Kurds are persecuted by the Iranian authorities as such.

According to another Western source, the only scholastic and official language in Iran is Persian, which is the mother tongue of well over half the population. Another 25 languages are spoken in the home, and newspapers and publications appear in various minority languages.

5.5 Homosexuals

During their visit to Teheran, the delegation had an opportunity to discuss the situation for homosexuals in Iran with several of their contacts.

According to one source with a good knowledge of the Iranian judicial system, the penalty for homosexuality in Iran is death by hanging. There is no minimum punishment. However, the source stressed that the burden of proof is heavy. In order for sentencing to take place, the homosexual act must be testified to in court by four persons who witnessed the act, or else both of the persons involved must confess to the relationship. A government source added that cases relating to homosexuality are extremely difficult to prove. A Western embassy confirmed that the burden of proof is heavy. Another Western embassy said that the authorities in the source's home country attach great importance to the burden of proof when processing asylum applications from Iranian citizens whose claims are based on homosexuality.

A Western embassy said it had never heard of cases relating solely to homosexuality. According to the same source, however, a man who had been charged with 15 counts of indecent behaviour had been executed the week before the delegation's arrival in Iran. He had also been found guilty of raping a 12-year-old boy in his shop.

According to a Western source familiar with the homosexual scene in Tehran, it had never heard of cases being brought against homosexuals. The source thought that the homosexual community would be aware of any cases being brought against persons solely on the grounds of their homosexuality.

A source connected with a Western news agency thought that any cases brought against homosexuals would not be brought to public attention. In view of that fact, the source could not rule out the possibility that there might be cases where the charge relates to homosexuality. In that connection, the source referred to a case in a military prison where a prisoner let slip to a warder about a homosexual relationship he had had. The prisoner was subsequently sentenced to 100 lashes.

According to a government source, homosexuals do not experience any problems in Iranian society; in other words, few cases relating to homosexuality have been brought before the Iranian courts. However, according to a source with a good knowledge of the Iranian judicial system, many cases concerning homosexuality have been brought before the Iranian courts. The source was unable to provide further details of the cases in question. With regard to sentences passed in such cases, the source could say only that the death penalty had been pronounced in several. The source added that if a case was not fully substantiated, it was for the judge to decide on the punishment.

When the delegation asked why such cases were brought, the source replied that this was because one of the parties involved in the homosexual relationship had contacted the courts.

According to a government source, a person cannot accuse himself. With regard to homosexuality, this means that – in his opinion – if an Iranian citizen reveals himself to be a homosexual in a Danish newspaper, nothing will happen to that person when he returns to Iran.

Several Western sources, including one embassy, said independently that homosexuals do not face problems in Iran today. There are places where homosexuals meet. In that connection, two of the Western sources mentioned that there are parks in Tehran which are meeting places for homosexuals.

6. Women and the dress code

According to a source connected with the Iranian judicial system, the formerly strict views on women's clothing no longer exist. The source added that illegitimate meetings between women and men may lead to sanctions. A source connected with a Western news agency confirmed that women's clothing requirements are more liberal now than they used to be. According to that source, women definitely enjoy more freedom now than they did a few years ago. In that connection, the source pointed out that women are often seen wearing make-up, especially in student circles, and women and men can talk quite freely in such circles.

The delegation itself saw many women wearing make-up and headscarves which did not completely cover their hair. It was noted that such "freedom" is even greater in certain sections of society and in specific city districts. The delegation itself saw shops openly displaying and selling all types of make-up. According to a Western embassy, make-up is not forbidden for use in the home.

7. Production, sale, possession and consumption of alcohol

When asked about punishments for the production, possession and consumption of alcoholic beverages, a Western embassy replied by way of introduction that production, possession and consumption are all banned under Iranian law. However, the source pointed out that Iranian Christians may produce and keep alcohol for their own use without risking punishment by the authorities. The sale of alcohol to Muslims is prohibited. This was confirmed by a source connected with the Iranian judicial system.

The penalty for the production, possession, sale or transportation of alcohol depends on the quantities involved. Penalties range from six months' to two years' imprisonment. A person who persuades or entices another person to drink alcohol may be sentenced to 74 lashes.

Article 165 of the Iranian Penal Code deals with the consumption of alcohol, while Article 175 of the same Code concerns the production, distribution, purchase, sale and transportation, etc., of alcohol (see Annexes 2 and 3).

According to a Western embassy, shortly before the delegation's visit to Iran, the Iranian police had raided a party at which alcohol was being served to Iranians. Nothing happened to the participants, but the hosts had to pay money to the police. According to the embassy, all types of alcohol can be purchased on the black market.

8. Index of annexes

- Annex 1: Map of Iran
- Annex 2: List of authorities, organisations and persons consulted
- Annex 3: Articles 165 and 175 of the Iranian Penal Code concerning penalties relating to the consumption, production, purchase and sale, etc. of alcohol (in Farsi)
- Annex 4: Unofficial English translation of the Articles referred to in Annex 3

Annex 1: Map of Iran



Annex 2: List of authorities, organisations and persons consulted

Iranian Ministry of Foreign Affairs.

Ambassador and Director of Nationality and Refugees Affairs, Ahmad Sobhani

Director of Passport and Visa Department, Mohammad Ali Mirkhani

Iranian Ministry of the Interior

Director-General for Bureau for Aliens and Foreign Immigrants' Affairs,

Hojatol-Islam Ebrahimi

Judiciary

Director-General, Office of International Affairs, Dr Shariatbagheri

Mehrabad Airport, Tehran – Airport Authorities

Law Enforcement Forces (LEF) – Iranian Police – Passports Department

Lawyer in Penal Law

Western News Agency

6 Western embassies

Annex 3: Articles 165 and 175 of the Iranian Penal Code concerning penalties relating to the consumption, production, purchase and sale, etc., of alcohol (in Farsi)

وارثان بجز زن و شوهر مشفق
در روزنه می توانند آن را مطالبه کنند. هر چند دیگران عفو
نمایند.

باب ششم - حد مسکر

فصل اول - موجبات حد مسکر

ماده ۱۶۵ - خوردن مسکر موجب حد است. اعم از آنکه کم باشد یا زیاد، مست کند یا نکند، خالص یا مخلوط باشد به حدی که آنرا از مسکر بودن خارج نکند.

تبصره ۱ - آب جو در حکم شراب است، گرچه مست کننده نباشد و خوردن آن موجب حد است.

تبصره ۲ - خوردن آب انگوری که خود بجوش آمده یا بوسیله آتش یا آفتاب و مانند آن جوشانیده شده است حرام است اما موجب حد نمی باشد.

فصل دوم - شرایط حد مسکر

ماده ۱۶۶ - حد مسکر بر کسی ثابت می شود که بالغ و عاقل و مختار و آگاه به مسکر بودن و حرام بودن آن باشد.

تبصره ۱ - در صورتی که شراب خورده مدعی جاهل به حکم یا موضوع باشد و صحت دعوای وی محتمل باشد محکوم به حد نخواهد شد.

تبصره ۲ - هرگاه کسی بداند که خوردن شراب حرام است و آن را بخورد محکوم به حد خواهد شد گرچه نداند که خوردن آن موجب حد می شود.

ماده ۱۶۷ - هرگاه کسی مضطر شود که برای نجات از مرگ یا جهت درمان بیماری سخت به مقدار ضرورت شراب بخورد محکوم به حد نخواهد شد.

ماده ۱۶۸ - هرگاه کسی دوبار اقرار کند که شراب خورده است محکوم به حد می شود.

ماده ۱۶۹ - اقرار در صورتی نافذ است که اقرار کننده بالغ - عاقل - مختار و دارای قصد باشد.

ماده ۱۷۰ - در صورتی که طریق اثبات شرب خمر شهادت باشد، فقط با شهادت دو مرد عادل ثابت می شود.

ماده ۱۷۱ - هرگاه یکی از دو مرد عادل شهادت دهد که شخصی شراب خورده و دیگری شهادت دهد که او شراب قی کرده است حد ثابت می شود.

مانند آن اختلافی نباشد ولی در صورتی که یکی به شرب اصل مسکر و دیگری به شرب نوعی خاص از آن شهادت دهد حد ثابت می شود.

ماده ۱۷۳ - اقرار یا شهادت در صورتی موجب حد می شود که احتمال عقلایی بر معذور بودن خورنده مسکر در بین نباشد.

ماده ۱۷۴ - حد شرب مسکر برای مرد و یا زن، هشتاد تازیانه است.

تبصره - غیرمسلمان فقط در صورت تظاهر به شرب مسکر به هشتاد تازیانه محکوم می شود.

ماده ۱۷۵ - هرکس به ساختن، تهیه، خرید، فروش، حمل و عرضه مشروبات الکلی مبادرت کند به ۶ ماه تا ۲ سال حبس محکوم می شود و یا در اثر ترغیب یا تطمیع و نیرنگ، وسایل استفاده از آن را فراهم نماید در حکم معاون در شرب مسکرات محسوب می گردد و به تازیانه تا ۷۴ ضربه محکوم می شود.

فصل سوم - کیفیت اجراء حد

ماده ۱۷۶ - مرد را در حالی که ایستاده باشد و پوشاکی غیر از ساتر عورت نداشته باشد و زن را در حالیکه نشسته و لباسهایش به بدن او بسته باشد ناز باند می زنند.

تبصره - تازیانه را نباید به سر و صورت و عورت محکوم زد.

ماده ۱۷۷ - حد وقتی جاری می شود که محکوم از حال مستی بیرون آمده باشد.

ماده ۱۷۸ - هرگاه کسی چندبار مسکر بخورد و حد بر او جاری نشود برای همد آنها یک حد کافی است.

ماده ۱۷۹ - هرگاه کسی چندبار شرب مسکر بنماید و بعد از هر بار حد بر او جاری شود در مرتبه سوم کشته می شود.

ماده ۱۸۰ - هرگاه محکوم به حد دیوانه یا مرتد شود حد از او ساقط نمی شود.

فصل چهارم - شرایط سقوط حد مسکر یا عفو از آن

ماده ۱۸۱ - هرگاه کسی که شراب خورده قبل از اقامه شهادت توبه نماید حد از او ساقط می شود ولی توبه بعد از اقامه شهادت موجب سقوط حد نیست.

ماده ۱۸۲ - هرگاه کسی بعد از اقرار به خوردن مسکر توبه کند قاضی

Annex 4: Unofficial English translation of the Articles referred to in Annex 3

Article 165 – Consuming alcoholic liquors, whether it is much or little, whether the user gets drunk or not, whether it is pure or mixed with something else, involves punishment of Had (implies corporal punishment).

Note 1: Beer, even if it does not induce drunkenness, is treated as wine and involves punishment of Had.

Note 2: The drinking of grape juice which has come to boil by itself or has been caused to boil by fire, sun and the like, is religiously forbidden but does not involve the punishment of Had.

Article 175 – Any one who manufactures, buys, sells, provides, transports or displays alcoholic drinks shall be sentenced to imprisonment from six months to two years. Any one who persuades or allures someone to consume alcoholic drinks shall be convicted to 74 lashes.

