



**International Convention on  
the Elimination  
of all Forms of  
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 9 OF THE CONVENTION**

**Twentieth periodic reports of States parties due in 2008**

**Addendum**

**ICELAND\* \*\***

[15 April 2008]

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\* This document contains the nineteenth and twentieth periodic reports of Iceland, due on 4 January 2008, submitted in one document. For the seventeenth and eighteenth periodic reports and the summary records of the meetings at which the Committee considered those reports, see documents CERD/C/476/Add.5 and CERD/C/SR.1715 and 1716.

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## **Introduction**

1. This is the combined nineteenth and twentieth periodic report of the Government of Iceland on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, submitted under article 9 of the Convention. The report was prepared in accordance with the General Guidelines regarding the form and contents of reports to be submitted by States parties, adopted by the Committee on the Elimination of Racial Discrimination (CERD/C/70/Rev.5). It contains information on the legislative, judicial, administrative and other measures Iceland has adopted since the submission of its previous reports which give effect to the provisions of the Convention. In particular, the report addresses the issues raised in the concluding observations of the Committee on the Elimination of Racial Discrimination adopted after the consideration of Iceland's combined seventeenth and eighteenth periodic reports (CERD/C/476/Add.5) at its sixty-seventh session in August 2005 (CERD/C/ISL/CO/18).

### **I. GENERAL**

2. As regards general information on Iceland and its people, general political structure and general legal framework under which human rights are protected, reference is made to the core document concerning Iceland (HRI/CORE/1/Add.26 of 24 June 1993). In this connection, however, it should be pointed out that various changes have taken place in the 15 years since Iceland submitted the above-mentioned document, and work is now in progress on updating the information it contains. Reference is also made in this respect to the general observations in Part I of Iceland's fourteenth report to the Committee (CERD/C/299/Add.4).

#### **A. National legal framework**

3. As stated in Iceland's seventeenth and eighteenth periodic reports, the European Convention on Human Rights was incorporated into Icelandic law by the Act No. 62/1994; its provisions can thus be directly invoked in court as domestic legislation. Under article 14 of the Act No. 62/1994, the rights and freedoms listed in the Convention are guaranteed without discrimination on grounds such as gender, race, colour, language, religion, political or other opinion, national or social origin, association with national minority, property, birth or other status.

4. Fundamental changes were made to the human rights section of the Icelandic Constitution by the Constitutional Act No. 97/1995. An important aspect of this was the inclusion in the Icelandic Constitution of the principle of equality now contained in article 65 (1), the main basis of legal protection against ethnic or racial discrimination. Under the article, everyone is equal before the law and enjoys human rights irrespective of gender, religion, opinion, ethnic origin, race, colour, property, family origins or other status. The second paragraph stipulates specifically that men and women are to enjoy equal rights. The equality principle applies to all persons, both Icelandic and foreign nationals, who are within the jurisdiction of the Icelandic state. Not only is the legislature obliged to observe the principle of equality as defined in the Constitution when passing legislation; the principle also imposes restraints on the executive authority when issuing regulations and resolving individual cases. The first paragraph of article 65 of the Constitution is

modelled on article 14 of the European Convention on Human Rights and article 26 of the United Nations Covenant on Civil and Political Rights. Article 65 has had a noticeable impact on Icelandic case law and several important judgements have been rendered in recent years on its basis. Reference is made in this respect to Iceland's sixteenth periodic report (CERD/C/384/Add.1, para. 3).

5. The principle of equality is implemented through several national acts of law. Article 11 of the Administrative Procedure Act, No. 37/1993, states that administrative authorities are to ensure legal harmony and equality when taking decisions, and that any discrimination between individual parties based on views relating to their gender, race, colour, national origin, religion, political opinion, social status, family origins or any other similar considerations is prohibited. Furthermore, article 29 of the Primary School Act, No. 66/1995, as amended by Act No. 98/2006, provides that in issuing a general curriculum and organising studies and tuition, and in preparing and selecting study material, particular care is to be taken that all students receive equal opportunities for study. The objectives of study, tuition and practices in primary schools are to be defined so as to prevent any discrimination on account of origin, gender, sexual orientation, residence, social class, religion, disability or other status. Under article 1 (2) of the Patients' Rights Act, No. 74/1997, all discrimination between patients on grounds of gender, religion, opinion, ethnic origin, race, colour, property, family origins or other status is prohibited. The Postal Service Act, No. 19/2002, also provides that postal services are to be provided without discrimination of any kind, in particular of a political, religious or ideological nature.

6. The Constitutional Act No. 97/1995 also introduced into article 66 (2) of the Constitution the provision that the right of foreigners to enter Iceland and reside there, and the reasons for which they may be expelled, are to be laid down in law. This was a new provision; in the explanatory notes accompanying the legislation as a bill, it was stated that the legislature had a duty, first and foremost, to ensure that the administrative authorities could not exercise powers of decision in this field in the absence of clear conditions provided for by law. Thus, the provision is aimed at guaranteeing security under the law for foreign nationals who come to Iceland. The legislature has a certain margin available to determine the contents of such rules; nevertheless, certain limits are imposed by the principle of equality stated in article 65 of the Constitution and the international obligations which Iceland has undertaken. Article 74 of the Constitution provides for the temporary prohibition of the activities of a society with an unlawful objective; an action must then be brought before a court, without undue delay, to have it dissolved by a court judgement. Organisations with racial hatred as part of their policies would for example come under this provision.

### **B. International instruments relating to human rights**

7. Iceland has ratified several international instruments relating to human rights since the submission of the last periodic reports. The Council of Europe Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine and the Additional Protocols to the above-mentioned Convention on the Prohibition of Cloning Human Beings and Transplantation of Organs and Tissues of Human Origin were ratified on 12 October 2004. The European Convention on Cybercrime was ratified on 29 January 2007. Protocol No. 13 to the

Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances, was signed on 3 May 2002 and ratified on 10 November 2004. Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention, was signed on 13 May 2004 and ratified on 16 May 2005.

8. Iceland has also signed several human rights agreements in the period covered by this report. The Convention on the Rights of Persons with Disabilities and the Optional Protocol to the above-mentioned Convention were signed on 30 March 2007. The Additional Protocol to the Convention on Human Rights and Biomedicine, concerning Biomedical Research, was signed on 25 January 2005. The Council of Europe Convention on the Prevention of Terrorism was signed on 16 May 2005. The Council of Europe Convention on Action against Trafficking in Human Beings was signed on 16 May 2005. The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism was signed on 16 May 2005. The necessary legal amendments and other measures needed for ratification of the above signed instruments are now under preparation.

### C. Foreign nationals living in Iceland

9. There has been a substantial increase in the number of foreign nationals living in Iceland over the past few years. On 1 January 2008, there were 21,434 foreign nationals resident in the country, representing about 6,8% of the total population of 313,376. By comparison, the proportions in 1996 and 2000 were 1.9% and 3.1% respectively. On 1 January 2008 foreign nationals from the other Nordic countries living in Iceland totalled just over 1,780, accounting for 8,3% of the immigrant population. By far the most foreign nationals have come from other European countries, about 71%, and of these Polish nationals are the largest group, 8,488 people. They represent 2,7% of the total population of Iceland and 39,6% of the immigrant population. The next most populous nationality are Lithuanians just over 1,300, representing 6,2% of the immigrant population. As regards foreign nationals from other continents, about 12% of the total immigrants come from Asia; about half of them are from Thailand and the Philippines. It should be mentioned that over the past 16 years, just over 6,000 foreign nationals have been granted Icelandic citizenship.

**Table 1**

#### **Number and proportion of foreign nationals in the Icelandic population 2004-2008**

	Number	Percentage
2004	10 180.0	3.5
2005	10 636.0	3.6
2006	13 778.0	4.6
2007	18 563.0	6.0
2008	21 434.0	6.8

*Source:* Statistics Iceland.

**Table 2**  
**Population by country of nationality 2004-2008**

	2004	2005	2006	2007	2008
Total	290 570	293 577	299 891	307 672	313 376
Iceland	280 390	282 941	286 113	289 109	291 942
Other countries	10 180	10 636	13 778	18 563	21 434
Nordic countries	1 606	1 576	1 657	1 701	1 785
Other European countries	5 454	5 817	8 007	12 263	15 345
America	858	856	1 015	1 170	1 211
Africa	299	284	311	339	362
Asia	1 842	1 977	2 621	2 901	2 513
Oceania	58	58	82	102	102
Stateless	34	39	53	87	116
Foreign countries, unspecified	29	29	32	0	0

*Source:* Statistics Iceland.

10. To a large extent, the rise in the number of foreign nationals living in Iceland can be explained by the high level of demand for labour and an economic upswing in recent years. The Agreement on the European Economic Area (EEA), which took effect in 1994, gave workers the right to move freely and accept employment throughout the area, and also opened the way to the free movement of capital, mutual access to the European internal market and the transfer of social rights. The subsequent enlargement of the European Union has resulted in more and more nations qualifying for these mutual rights. It should also be mentioned that under a Nordic agreement dating from 1983, citizens of the Nordic countries have the right to work throughout the Nordic area without special employment permits. These developments have shifted the composition of the Icelandic population in the direction of patterns familiar in other countries in Northern Europe.

#### **D. Government policy on foreign nationals**

11. The Icelandic Government has considered it necessary to take special measures to secure the position of foreign immigrants in Iceland and enable them to adapt to a new society. The Government adopted a policy on the integration of immigrants in January 2007. In this policy, the term “immigrant” refers to a foreign national who has settled on a long-term basis in Iceland but was born overseas, or whose parents were both born overseas or have held foreign citizenship at some time. A feature common to all immigrants is that their native language is not Icelandic; the term native language refers to the first language learned by a child. The Government’s policy contains a large number of aims, many of which have already been achieved. The overall aim is to ensure, as far as possible, that all persons resident in Iceland have access to the same opportunities and can play an active part in all segments of society. This is the first time that such a policy has been adopted in Iceland.

12. One of the aims of the aforementioned policy is to upgrade teaching in the Icelandic language and on the Icelandic society for adult immigrants, and to ensure that they have access to information about the local society and the rights and obligations of the individual in the

country. It also aims to ensure that foreign nationals living and working in Iceland are in possession of the requisite residence and employment permits and receive the same wages and rights as other people. Furthermore, the policy states that pupils in kindergartens, junior and secondary schools whose mother tongue is not Icelandic should be entitled to teaching in Icelandic as a second language. They should have the opportunity, as far as possible, to maintain their mother tongue. It should be made easy for the parents and guardians of children of foreign origin to become involved in work connected with children and teenagers.

13. The above-mentioned policy also assumes that immigrants have access to satisfactory health care in Iceland, comparable to Icelandic nationals, as is provided for in the Health Services Act, No. 40/2007, the Social Security Act, No. 100/2007, and the Patients' Rights Act, No. 74/1997. Language difficulties should not impede the transfer of information between the individual and the healthcare worker, and the health service employees are to be informed about different cultural norms insofar as such information may be relevant for individuals who require health services. Furthermore, the local authorities (municipalities) are instructed to ensure that immigrants have the same access to social services as other residents of their areas, and the authorities are to take the measures available to prevent immigrants from becoming socially isolated. Local authorities' plans of action on child welfare are expected to take particular account of children whose mother tongue is not Icelandic, and the local authorities are expected to seek methods of ensuring that children and teenagers of foreign origin take part in sports and leisure activities in their areas.

14. The Icelandic Government's policy declaration of 23 May 2007 also gives priority to issues relating to immigrants. It states that it is important that the Government, the industry and the community as a whole unite in combating prejudices against minority groups based on their origin or other considerations. Furthermore, it states that a comprehensive programme of action on immigrants' issues will be drawn up with the goal of improving the conditions faced by immigrants who move to Iceland and facilitating them in becoming active participants in Icelandic society and fostering their own culture. Priority is also given to ensuring that foreign nationals in the labour market enjoy the same rights as Icelandic workers and that all contracts of employment for foreign workers will be consistent with current wage agreements. Moreover, the aim is to prevent social underbidding in the labour market, and to make a special effort to provide Icelandic language lessons for foreigners.

### **E. The Immigration Council**

15. The Immigration Council was founded in 2005. Its main function is to discuss the principal issues relating to immigrants' integration to Icelandic society. It acts in an advisory capacity to the Government in connection with policy-making in this area. The Council includes representatives of the Ministry of Education, Science and Culture, the Ministry of Justice and Ecclesiastical Affairs, the Ministry of Health, the Union of Local Authorities, the Icelandic Red Cross and the Ministry of Social Affairs, which holds chairmanship of the Council. The Council also includes one immigrant, who is appointed without nomination. In accordance with the Government's policy on the integration of immigrants to Icelandic society of January 2007 and its policy declaration of May 2007, the Immigration Council is currently working on compiling the Government's programme of action on immigrants' issues, mention of which has been made above. It is envisaged that this programme will cover more issues than those laid down in the



Government's policy statements referred to above. The emphasis is on having the Immigration Council maintain broad consultation with those parties that are involved in issues relating to immigrants. It is envisaged that the Government's policy on immigrants' issues will be complete as a parliamentary resolution in spring 2008.

16. A conference was held in January 2008 for the preparation of the Government's action plan on immigrants' issues. It addressed legislation, the business sector and participation by immigrants in the labour market, the dissemination of information to immigrants and to the general community, the role of the local authorities and the micro-society, prejudices, awareness-raising and the media, education for adult immigrants, evaluation of immigrants' education and experience and the future of immigrant children in their new country, with specific reference to schools, health clinics and leisure opportunities. The aim of the conference was to hear different points of view and ideas that could be of use in building the action plan, and to involve as many people as possible in its formulation.

#### **F. Measures regarding refugees**

17. A new Refugee Committee was established in 2005 to deal with the same issues as those formerly handled by the Refugee Council. The Minister of Social Affairs appoints the Refugee Council for a term of five years at a time. The Ministry of Justice and Ecclesiastical Affairs, the Ministry for Foreign Affairs and the Icelandic Red Cross each appoint a representative to the committee. The chairman of the committee is appointed by the Minister of Social Affairs. The responsibilities of the Refugee Committee include submitting to the Government an overall policy and structure for receiving groups of refugees, monitoring the reception of such groups and giving the Government its comments on individual cases as requested. Furthermore, the Committee is to examine the personal circumstances of those refugees who are granted residence permits on humanitarian grounds. The Refugee Committee works in collaboration with the United Nations High Commissioner for Refugees (UNHCR). Recommendations made by the Committee to the Government on the provenance of refugees to be received by Iceland in any given instance are at all times made in consultation with the UNHCR.

18. The Refugee Committee set itself new guidelines in October 2007. They include comprehensive assistance and counselling for refugees who are received by quota for a period of one year following their arrival in Iceland. The guidelines also cover assistance to those who are granted residence permits on humanitarian grounds or refugee status in Iceland. Shall efforts be made to give them the same assistance as is given to quota refugees. This involves financial assistance, housing, education, day care for children, leisure activities, health care, dentistry, interpreting services, employment and other necessary assistance. The aim of this assistance is to ensure, as far as possible, that the refugees will be able to integrate in Iceland and to encourage the local community to meet their needs. Refugees are to be given the opportunity of becoming active participants in Icelandic society, while at the same time their right to protect and pursue their own cultural identity is to be respected. The Ministry of Social Affairs has entered into an agreement with the Icelandic Red Cross on the provision of assistance to refugees. The Ministry also makes agreements with the local authorities on the reception of certain numbers of refugees, in accordance with the Government's decisions at any given time. The reception of refugees in Iceland is always handled jointly by the state, the receiving local authority and the Icelandic Red Cross.

19. Early in 2007, the Minister of Social Affairs and the Minister for Foreign Affairs decided to accept groups of quota refugees each year. In 2005 Iceland received 7 individuals from Kosovo and 24 from Colombia. Iceland received a further 30 people from Colombia in 2007. Thus, in 2005 and 2007, Iceland received a total of 61 refugees. The next group of refugees is scheduled to arrive in 2008. It may be mentioned that since 1956 Iceland has received a total of 481 refugees.

### **G. Number of asylum-seekers and services provided**

20. Of 76 applications for asylum in 2004, 38 were turned down, 3 applicants were granted residence permits on humanitarian grounds, 20 were returned to another state where they had already applied for asylum and 15 applications were withdrawn. Of 87 applications in 2005, 2 were granted residence permits on humanitarian grounds, 1 was granted a provisional residence permit, 52 applications were turned down, 25 applicants were returned to another state where they had already applied for asylum and 5 applications were withdrawn. One case originating in 2005 awaits a final decision by the Ministry of Justice. Of 39 applications in 2006, 15 were turned down, 10 applicants were returned to another state where they had already applied for asylum and 7 applications were withdrawn. Three cases originating in 2006 have yet to be fully processed by the Directorate of Immigration and 4 await a final decision by the Ministry of Justice. Of 42 applications in 2007, 1 was granted asylum, 2 were granted residence permits on humanitarian grounds, 1 was turned down, 12 were returned to another state where they had already applied for asylum and 4 were withdrawn. Sixteen applications originating in 2007 await final processing by the Directorate of Immigration and 6 await final decisions by the Ministry of Justice. It should be mentioned that due to Iceland's international obligations under the Nordic collaborative programme, the Schengen Agreement and collaboration between states that are signatories to the Dublin Convention, considerable numbers of asylum-seekers have been returned from Iceland to states where their applications for asylum have been accepted for examination. In other respects, reference is made to the discussion on the granting of asylum in Iceland in Iceland's last periodic report (CERD/C/476/Add.5, paras. 22-25).

21. As was mentioned in paragraph 25 of Iceland's last periodic report, the Directorate of Immigration entered into an agreement with the Reykjanesbær local authority at the beginning of 2004 under which the local authority is to provide care for all foreign nationals and stateless persons who apply for asylum in Iceland. This agreement was renewed in March 2005, and is to be extended by one year at a time thereafter unless it is terminated with three months' notice. Under the agreement, the Reykjanesbær social services are responsible for providing asylum-seekers with accommodation, food and other assistance, including medical attention, medicines and specialist services. Asylum-seekers have access to a library where they are able to use the Internet, borrow books and make use of other services. They also receive free access to a swimming-pool, and can use the bus service within the Reykjanesbær area free of charge. All their travelling expenses to and from the metropolitan area in connection with the processing of their applications are paid by the Reykjanesbær Council. Asylum-seekers also receive free telephone cards and other general expenses that arise are covered. They receive spending money after four weeks' stay in the country. Care is provided by the Reykjanesbær Council while the asylum-seeker's case is under consideration by the authorities, unless other arrangements are announced by the Directorate of Immigration.

22. The Reykjanesbær social services employ an officer to supervise services to asylum-seekers. His responsibilities include receiving the asylum-seekers, ensuring that they receive accommodation and food and assisting them with other services they may require, including medical and specialist attention. The officer is to ensure that asylum-seekers' children have access to kindergarten and primary school facilities in cases where they have been in the country for more than three months. The officer acts as a contact between the asylum-seekers and the Directorate of Immigration, covering issues including the progress of their asylum applications and how they are handled, interviews and the service of rulings by the authorities. In addition, the officer is a contact between the asylum-seekers and the police and the Icelandic Red Cross. Agents of the Icelandic Red Cross have access to asylum-seekers in their capacity as representatives of refugees and asylum-seekers.

#### **H. Draft legislation on the legal standing of foreign nationals**

23. The Minister of Justice and Ecclesiastical Affairs presented a bill to the *Althingi* (Parliament) in January 2008 to amend the Foreign Nationals Act, No. 96/2002. At the same time, the Minister of Social Affairs presented a bill to amend the Act on Foreign Nationals' Right of Employment, No. 97/2002. These bills are currently before the *Althingi*. They will be discussed in further detail later in the present report in connection with actions taken by Iceland under article 5 of the Convention.

## **II. ISSUES RAISED IN THE CONCLUDING OBSERVATIONS OF THE COMMITTEE IN 2005**

### **A. General**

24. In its concluding observations on Iceland's seventeenth and eighteenth periodic reports submitted in a single document (CERD/C/476/Add.5), the Committee drew attention to the fact that the Convention had not been incorporated into Icelandic law (CERD/C/ISL/CO/18, para. 8):

**The Committee encourages the State party to consider incorporating the substantive provisions of the Convention into its domestic law, with a view to ensuring comprehensive protection against racial discrimination.**

### **Reply**

25. In order to illuminate the situation referred to above, it must be pointed out that Iceland follows the dualistic theory regarding the relationship between international and domestic law. According to the dualistic theory, international and domestic law constitute two separate systems, each of which applies in its respective area: international law between nations and domestic law within the state. Consequently, the principles of international law, including the provisions of international conventions, do not form a part of domestic law unless they have been specifically incorporated into domestic law in accordance with the Constitutional law of the relevant country. Nonetheless, Iceland is obliged, under international law, to ensure that domestic law is not at variance with the international conventions to which Iceland is a party.

26. Two principal methods are used to give international conventions the force of law in Iceland: (i) adaptation, which may involve the adaptation of the international convention to

domestic law, or the adaptation of domestic law to the international convention, and (ii) incorporation. The method most commonly used in Iceland is adaptation; the provisions of international conventions that may have, or are intended to have, effect in domestic law are transcribed in the form of general statutes, executive regulations or, as appropriate, constitutional acts, or Icelandic legislation is amended in such a way as to be compatible with the undertakings involved in the international agreement. The European Convention on Human Rights is the only international human rights agreement that has been incorporated in Iceland in its entirety (the European Convention on Human Rights Act, No. 62/1994).

27. Even though the international agreements to which Iceland is a party have not been incorporated in Icelandic law, they nevertheless have substantial influence on Icelandic legislation and the application of the law. It is a general principle in Icelandic law that provisions in domestic law are to be interpreted in accordance with the principles of international law. In Icelandic judicial practice, this principle of interpretation has been applied not only to general legislation and executive regulations, but also to the provisions of the Icelandic Constitution.

28. Icelandic courts have gone to considerable lengths to interpret the provisions of Icelandic law and the Constitution in accordance with international human rights agreements, thus giving these agreements the force of domestic law. Before the European Convention on Human Rights was incorporated in Icelandic law, there were some examples of conflicts between domestic law and the provisions of the Convention in cases before Icelandic courts. In such cases, judicial procedure evolved in such a way that efforts were made to interpret Icelandic legal provisions in conformity with the Convention as far as possible. An example of this was the judgement by the Supreme Court of 6 February 1992 in Case No. 494/1991, which was delivered before the incorporation of the Convention; in this judgement, the court completely set aside an enacted provision of Icelandic law that was not compatible with the Convention.

29. The constitutional amendments of 1995 were largely inspired by, and to a great extent reflected, the provisions of the United Nations human rights instruments and those of the European Convention on Human Rights. Thus, the influence of these conventions on the application of Icelandic law has increased significantly. The legal protection of human rights in Iceland was enhanced considerably as a result of the constitutional amendments referred to. The courts have applied the constitutional provisions on human rights in a large number of cases in Iceland and have tested whether executive and legislative actions have been compatible with these provisions. Legislation conflicting with the human rights provisions of the Constitution will not be applied by the Icelandic judiciary.

30. Reference has been made to international human rights conventions in a large number of judgements delivered in Iceland, in which the provisions of such conventions have been applied in conjunction with the provisions of the Constitution. An example of such an instance was the judgement of the Supreme Court, No. 125/2000, of 19 December 2000 in the case of the Icelandic Federation of the Handicapped v. the Social Insurance Administration. In this case, the Court concluded that changes made to the Social Security Act, adversely affecting social security payments to disabled persons, conflicted with article 76 (1) of the Constitution, on the right to social assistance, and article 65 of the Constitution on equality. In its judgement, the Supreme Court interpreted articles 65 and 76 of the Constitution in conjunction with article 26 of the International Covenant on Civil and Political Rights and article 9 of the International Covenant

on Economic, Social and Cultural Rights, which had been ratified by Iceland. The Court stated that it is a recognised principle in Nordic law that legislation should, as far as possible, be interpreted in conformity with international conventions which have been ratified.

31. In light of the foregoing, the Government considers that even though the Convention on the Elimination of All Forms of Racial Discrimination has not been incorporated in Icelandic legislation, the legal protection resulting from its provisions is nevertheless guaranteed in practice in Iceland. At present, the Government has not decided to incorporate other international conventions than the European Convention on Human Rights in domestic law.

### **B. Concluding observation relating to article 2**

32. While recognizing that there are no serious social conflicts within Icelandic society, the Committee nevertheless considers that Iceland should adopt a more proactive approach in preventing racial discrimination or related intolerance (CERD/C/ISL/CO/18, para. 9):

**The Committee recalls that the notion of prevention is inherent in many provisions of the Convention and encourages the State party to take direct measures to prevent racial discrimination in all spheres of life and, to that effect, consider the possibility of adopting comprehensive anti-discrimination legislation providing, inter alia, for effective remedies against racial discrimination in civil and administrative proceedings.**

### **Reply**

33. As stated in paragraphs 4 and 5 above, article 65 of the Constitution states that everyone is equal before the law and is to enjoy human rights irrespective of gender, religion, opinion, ethnic origin, race, colour, property, family origins or other status. Mention is also made of article 11 of the Administrative Procedure Act, No. 37/1993, article 29 of the Primary School Act, No. 66/1995, and article 1 (2) of the Patients' Rights Act, No. 74/1997; these provisions are all intended to ensure the equality of individuals and to prevent racial discrimination in Iceland.

34. In addition to the provisions listed above, mention should be made of two provisions of the General Penal Code, No. 19/1940, which are intended to provide protection against racial discrimination. Under article 180 of the Code it is a punishable offence to deny a person goods or services or access to any public area or place intended for general public use on grounds of the person's nationality, colour, race, religion or sexual orientation. Furthermore, it is a punishable offence under article 233 (a) of the Code to attack a person, or a group of persons, in public with mockery, slander, insult, threat or in another manner on the basis of their nationality, colour, race, religion or sexual orientation. In light of these provisions, it is clear that Iceland has enacted laws in various areas with the intention of preventing racial discrimination.

35. In this connection, it should be mentioned that the European Union (EU) has also issued two directives against racial discrimination: Directive 2000/43/EC, of 29 June 2000, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and Directive 2000/78/EC, of 27 November 2000, establishing a general framework for equal treatment in employment and occupation. These directives are based on article 13 of the European Community Treaty, which authorises the EU to take measures against discrimination

on the basis of gender, race and origin, religious belief, disability, age or sexual orientation. As there is no comparable provision in the EEA Agreement, it has proved difficult to incorporate these directives into the domestic legislation of the EFTA states (Iceland, Liechtenstein and Norway). On the other hand, the EFTA states have taken part in the EU's programme of action involving the prohibition of discrimination under article 78 of the EEA Agreement, which authorises the EFTA states to participate in measures taken by the EU concerning social issues. Furthermore, the EFTA states have declared that they intend to adapt their legislation to bring it into line with these directives. A committee is now at work under the auspices of the Ministry of Social Affairs examining these issues.

36. Paragraphs 11-14 above described the creation of an overall policy on immigrants by the Icelandic Government. The policy provides for various measures to be taken for immigrants in Iceland in the fields of social services, health services, education, employment, information, child welfare, etc., in order to enable them to make use of the same opportunities as other persons in the country and to become active participants in the community.

37. In June 2007, the *Althingi* approved a parliamentary resolution on a four-year plan of action, covering the period 2007-2011, to improve the position of children and young persons and their families. The measures adopted were based in part on the rights of children as laid down in the United Nations Convention on the Rights of the Child. In accordance with the resolution, a consultative group has been appointed, one of the tasks of which is to examine the recommendations made by the United Nations Committee on the Rights of the Child in January 2003 regarding the application of the Convention in Iceland, and to make proposals on methods of responding to international agreements in order to improve the position of children and to give support to parents in bringing up their children. The parliamentary resolution gave particular attention to measures to be taken in the interests of immigrant children, allowing for the Government, the business sector and the community at large to join forces in fighting against prejudice against minority groups with a special programme of action. According to the resolution it shall be ensured that immigrants are well received and it made easier for them to participate in the society while maintaining their own cultural identity. An integral part of work towards this end is to give support to immigrants' children. The parliamentary resolution also placed particular emphasis on various measures intended to strengthen the rights of children of foreign origin, and their families, in the fields of education, the health services and the social services. Further discussion of the contents of the parliamentary resolution follows later in the present report in the context of the examination of the measures taken by Iceland under article 5 of the Convention (para. 83).

38. It should furthermore be mentioned that in the four-year plan (2007-2011) for the police in Iceland, a detailed future vision of the police is set forth, including the structure of the police, methodology and means of evaluating success. In the plan a special emphasis is put on staffing the police with people who reflect the multicultural cross-section of society. It is also stated that the police should be able to provide services to foreign nationals resident in Iceland and those who are in the country for short periods only. The aim is also that a plan be drawn up on communication between the police and foreign nationals, including how the police can make a contribution to educate foreign nationals and ensure their security under the law. The Office of the National Commissioner of Police is currently working on better means of making information available to foreign nationals on its homepage.

39. Thus, instead of adopting comprehensive legislation against racial discrimination, Iceland has sought to tackle the problem by enacting legal provisions banning discrimination and by general and specific measures in various fields so as to guarantee and improve the position of foreign nationals in Iceland. Hitherto, there has not been considered to be any reason for enacting comprehensive legislation against racial discrimination in Iceland.

### **C. Concluding observation relating to article 2, paragraph 1 (e)**

40. The Committee noted that direct funding for the Icelandic Human Rights Centre has been cut in the national budget for 2005 and that funds previously earmarked for the Centre had been reallocated to human rights projects in general (CERD/C/ISL/CO/18, para. 10):

**The Committee invites the State party to maintain its level of cooperation with non-governmental organizations combating racial discrimination, including helping to ensure the adequate funding and independence of such organizations, bearing in mind that, according to article 2, paragraph 1 (e), of the Convention, each State party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements.**

### **Reply**

41. Instead of earmarking the financial contribution to one organisation, i.e. the Icelandic Human Rights Centre (IHRC), working in the field of human rights, it was decided at the time to have a general item in the national budget for human rights to enable all organisations, institutions and others to apply for financial support. This step was considered necessary to avoid discrimination between parties and should not be considered as cutting off support in this field. In the national budget for 2008, ISK 10 M was allocated directly to the Icelandic Human Rights Centre. The Ministry of Justice and Ecclesiastical Affairs has a further ISK 8 M to allocate to human rights projects and the Ministry for Foreign Affairs ISK 4 M.

42. The Icelandic authorities maintain very close cooperation and relations with non-governmental organisations in the field of human rights and have supported such organisations and movements. For example, the Ministry of Social Affairs cooperates closely with the Icelandic Red Cross regarding issues on refugees and asylum-seekers. Another example that may be mentioned is the agreement of May 2007 between the Ministry of Social Affairs and the Intercultural Centre, which is a counselling and information centre for immigrants and on immigrants' issues, on support for general and specialised counselling by the Intercultural Centre for people of foreign origin who are resident in Iceland.

### **D. Concluding observation relating to article 5**

43. While the Committee noted that members of the border police received training on international human rights standards and refugee law, it was concerned about reports that asylum requests were not always properly handled by border guards (CERD/C/ISL/CO/18, para. 11):

**The Committee encourages the State party to intensify its efforts to provide systematic training to border guards, with a view to increasing their knowledge about all relevant aspects of refugee protection, as well as about the situation in the countries of origin of asylum-seekers.**

## **Reply**

44. In order to shed light on this issue it is necessary to understand the process for asylum-seekers in Iceland. In practice, applications for asylum are generally submitted to the police which takes a statement from the asylum-seeker. In his statement, the asylum-seeker is required to give an account of his personal circumstances, the route by which he came to Iceland and the reasons why he decided to seek asylum in Iceland. Asylum-seekers are also asked, as part of the initial interview, whether they have, or have had, asylum applications under consideration in other countries. When the taking of this testimony is complete, the application for asylum is sent to the Directorate of Immigration, which decides how it is to be treated. It does not have any effect on the application for asylum if the applicant has presented forged or stolen identity papers when entering the country. The same applies to those who arrive in the country without papers (see the first paragraph of article 31 of the United Nations Convention on Refugees).

45. All border guards receive training and education in the field of international human rights and the legislation applying to refugees. In the basic and further training departments of the National Police College, emphasis is placed on teaching trainees about Iceland's international human rights obligations and the related obligations of the police authorities. One special subject in the curriculum of the basic training department involves an examination of the human rights provisions of the Constitution; in recent years, courses have also been held in the further training department of the College in which police officers have received training in the principal aspects of human rights, including issues relating to refugees. The status of refugees, measures to protect refugees and the conditions in their countries of origin have also been dealt with in special courses for police officers, including continuing education courses for the police and a course on issues relating to foreign nationals and surveillance on the border. A representative of the Intercultural Centre has come to these courses and spoken about the necessity of knowing something about refugees' backgrounds. Representatives of the Icelandic Red Cross have also participated in some of these courses. Finally, it should be mentioned that in the Police College's training in preparation for administrative positions, end-of-course assignments have been done on issues relating to foreign nationals, and these texts are available to all those who have access to the intranet of the Office of the National Commissioner of Police.

46. Iceland is not aware of the cases referred to in the Committee's comment quoted above, in which it is stated that asylum requests have not always been handled correctly by border guards, and seeks to ensure, as far as possible, that Icelandic border guards receive satisfactory training and education regarding refugee issues.

### **E. Concluding observation relating to article 5 (d) (iv)**

47. While noting that the purpose of the requirement that a foreign "spouse or partner in cohabitation or registered partnership of a person lawfully staying in Iceland" must be 24 years of age or older to obtain a permit to stay as a family member was to prevent forced or sham



marriages, the Committee was nevertheless concerned that this requirement might have discriminatory effects, bearing in mind that the minimum age of marriage under the Icelandic Marriage Act, No. 31/1993, is 18 years (CERD/C/ISL/CO/18, para. 12):

**The Committee recommends that the State party reconsider this age requirement and explore alternative means of preventing forced or sham marriages.**

### **Reply**

48. Under article 13 of the Foreign Nationals Act, No. 96/2002, the foreign spouse, partner in cohabitation or registered partnership of an Icelandic citizen or other Nordic citizen who is resident in Iceland, or of a foreign national who is lawfully resident in Iceland under a residence permit which is not subject to restrictions, or a temporary residence permit, must be older than 24 years in order to be granted a residence permit in Iceland as a family member. The aim of this provision is to prevent sham or forced marriages in Iceland. In practice, an application from a spouse who is 24 years old or younger is not automatically turned down on grounds of the age requirement. The Directorate of Immigration has examined each case individually, and in those instances where it has been considered that the marriage has been entered into in a normal way, then residence permits have been issued to spouses aged 24 years and younger on other grounds, e.g. on grounds of employment or study undertaken by the individual in question.

49. In the aforementioned (para. 23) draft legislation amending the Foreign Nationals Act, No. 96/2002, which is now under consideration by the *Althingi*, the provision referred to above has been changed and brought into line with the application of the rule as practised over the past few years. In the amendment bill, it is proposed that the spouse's youth should not automatically prevent a residence permit being based on grounds of marriage. It is therefore proposed that the 24-year requirement be removed from the definition of the individual's closest family member. On the other hand, it is considered proper to continue to exercise special caution in granting residence permits where a spouse is 24 years old or younger; it is therefore proposed that a new sentence be added to the provision stating that in all cases where either of the spouses is aged 24 years or younger, a special investigation shall be made as to whether a sham or forced marriage might be involved, and whether the establishment of the marriage, cohabitational relationship or registered partnership is at variance with public order and the general principles of Icelandic law. In this way, an attempt is made to protect the interests of those who may be considered as being in an inferior position due to their youth, without the text of the law suggesting that marriages involving such individuals are not generally recognised as the lawful basis for the issue of a residence permit in Iceland.

### **F. Concluding observation relating to article 5 (e) (i)**

50. While noting that the issuance of temporary work permits to employers of foreign workers rather than to the employees themselves serves to better oversee the situation of the labour market, and that copies of such permits indicating the expiry date are handed out to the employees, who may change jobs during the period covered by the permit, the Committee was concerned that this situation might lead to breaches of the labour rights of temporary foreign workers (CERD/C/ISL/CO/18, para. 13):

**The Committee recommends to the State party that it strengthen legal safeguards to prevent such breaches and to ensure that foreign workers are protected against discrimination, in particular in relation to working conditions and work requirements.**

### Reply

51. Under article 7 of the Foreign Nationals' Right to Work Act, No. 97/2002, temporary work permits are issued to an employer in order to employ foreign workers. The rationale for having the work permits held by the employer is that this places the employer under certain obligations and makes him shoulder certain responsibilities towards the foreign worker. The conditions for being able to grant a temporary work permit include the existence of a signed employment contract for a specific period or a specific project, guaranteeing the employee wages and other terms of service on par with those enjoyed by domestic workers. The employer is also obliged to take out health insurance for the foreign worker until the worker is covered by the national system under the Social Security Act, No. 100/2007. In addition, the employer guarantees to pay the cost of transporting the worker to his home country at the end of the employment period if the worker is unfit for work in the long term due to illness or as a result of an accident, and also in the event of termination of the employment contract for which the worker is not responsible.

52. In the aforementioned (para. 23) draft legislation amending the Foreign Nationals' Right to Work Act, No. 97/2002, it is proposed that temporary work permits will be issued in the name of the foreign worker in each case and that he will hold the work permit; it is nevertheless envisaged that the permit will be valid for employment with a specific employer. The employer will continue to apply for work permits, though he will not be the actual applicant, as has been the case up to now, but will submit the application in the name of the foreign worker involved. The employer will automatically become an "agent" of the foreign worker in this respect. In accordance with these proposed amendments, the employer and the foreign worker will have the right to appeal jointly to the Ministry of Social Affairs against decisions by the Directorate of Labour to turn down applications for temporary permits, or to revoke such permits, and it is envisaged that they will both sign the complaint (appeal) against such decisions by the executive. The parties may, on the other hand, grant others the authority to pursue the matter on their behalf. Under article 10 of the bill, a new temporary work permit may be granted in connection with the employment of the foreign worker by an other employer than the one to which the previous permit applied.

53. The rationale behind this arrangement is that it makes it easier for the Government and the trade unions to monitor and ensure that foreign workers are not treated unfairly in the domestic labour market, since the employer named in the permit is obliged to ensure compliance with current laws and collective agreements. The Directorate of Labour and the trade unions have enjoyed smooth and close collaboration in defending the rights of foreign workers employed under temporary permits and assisting them where necessary, and it is envisaged that the comments of the relevant trade union will continue to be called for before the issuance of temporary work permits in cases of a shortage of labour and positions where specialist skills are required. This arrangement makes it easier for the trade unions to make contact with the foreign workers who come to work in Iceland and to inform them of their rights on the Icelandic labour market. In this connection, it should be mentioned that under article 1 of the Workers' Terms of Employment and Obligatory Pension Insurance Act, No. 55/1980, the wages and other terms

of employment agreed on in collective bargaining between the workers' and employers' federations are minimum terms, irrespective of gender, nationality or employment period, for all wage-earners in the relevant occupation in the area covered by the agreement. Agreements between individual workers and employers providing for lower wages or poorer terms are consequently invalid.

54. The Directorate of Labour has taken special measures to exercise supervision of workplaces where foreign workers are employed. The Directorate of Labour recently completed a campaign entitled *Allt í ljós* ("All Out in the Open"), which was designed to ensure that operations of foreign companies active in Iceland were in conformity with Icelandic law and that domestic employers respected the rights of foreign workers on the domestic labour market and reported the engagement of foreign workers to the authorities. This campaign lasted three months and concentrated on checking compliance with the provisions of the Foreign Nationals' Right to Work Act, No. 97/2002, the Temporary-Work Agencies Act, No. 139/2005 and the Act on the rights and obligations of foreign undertakings that post workers temporarily in Iceland, and on their workers' terms of service, No. 45/2007, with particular emphasis on workplaces in the construction industry.

55. In January 2008, the Directorate of Labour submitted a report to the Minister of Social Affairs and Social Security stating, amongst other things, that during the campaign *Allt í ljós*, the Directorate's personnel had visited 124 workplaces where employees of 267 companies were working; most of these places were in the metropolitan area. The report states that the results of the campaign were good and that its aims were achieved in the case of the companies it covered. Following the campaign, the Directorate of Labour has engaged an employee to direct monitoring under the statutes listed above. Three persons will work with this employee at the Directorate's office in Reykjavík, and the Directorate's regional service offices all over the country will also be involved in monitoring. The experience gained in the campaign will be put to use in the next stage of the Directorate's monitoring activities covering foreign workers; more occupations are to be covered, including the retailing and catering industries.

56. In collaboration with the Ministry of Social Affairs, the Directorate of Labour has also begun preparations for a vocational training programme for young people of foreign origin. The aim of the project is to improve the living conditions of young people of foreign origin and to broaden the range of opportunities available to them in employment and education.

#### **G. Concluding observation relating to article 5 (f)**

57. The Committee expressed its concern at reported cases where access to public places such as bars, discotheques, etc., had been denied on racial grounds, and noted the absence of court judgements under article 180 of the General Penal Code, No. 19/1940, prohibiting such discriminatory acts (CERD/C/ISL/CO/18, para. 14):

**The Committee recalls the right of all individuals to access public places without discrimination and recommends that the State party regulate the burden of proof in civil proceedings involving denial of access to public places based on race, colour, descent, and national or ethnic origin so that once an individual has established a**

**prima facie case that he or she has been a victim of such denial, it shall be for the respondent to provide evidence of an objective and reasonable justification for the differential treatment.**

### **Reply**

58. In connection with this observation, it should be pointed out that under article 180 of the General Penal Code any person who denies a person goods or services on the grounds of his or her nationality, colour, race, religion or sexual orientation is to be fined or imprisoned for up to 6 months. The same applies to denying a person the right to enter a public area or place intended for general public use on the above-mentioned grounds.

59. Furthermore, there have been no cases or instances known by the authorities where people complain that private and public parties have denied them access to public places on the grounds enumerated in article 5 (f) of the Convention. According to information from the Director of Public Prosecutions, no complaints have been received regarding alleged violations of article 180 of the General Penal Code since Iceland submitted its last periodic report.

60. Moreover, under the first paragraph of article 44 of the Code of Civil Procedure, No. 91/1991, it is up to the judge to decide, after making an assessment of the evidence in a case, whether a disputed allegation is to be considered proven, providing that he is not specifically prevented from doing this by a statutory provision. The general principle in civil legal procedure is that the person who makes an allegation concerning a matter in dispute bears the burden of proof regarding his allegation, though exceptions from this may be found in law. For example, under provisions in the Gender Equality Act, which was passed by the *Althingi* on 26 February 2008, the burden of proof rests with the employer in certain cases if there is a probability that discrimination has taken place on the grounds of gender. At present, no decision has been taken as to whether the rule on the burden of proof is to be amended in the way proposed by the Committee on the Elimination of Racial Discrimination. In light of the available information, which states that the Directorate of Public Prosecutions has not received any complaints under article 180 of the General Penal Code, it is uncertain whether this will be done, at least in the foreseeable future.

### **H. Concluding observation relating to article 6**

61. The Committee noted with concern that applicants whose asylum applications had been rejected or who were being expelled by the Directorate of Immigration could only appeal against the decision to the Minister of Justice as the supervisory authority, whose decision was subject only to a limited court review on procedure rather than substance (CERD/C/ISL/CO/18, para. 15):

**The Committee recommends that the State party consider introducing a full review by an independent judicial body of decisions of the Directorate of Immigration and/or the Minister of Justice concerning the rejection of asylum applications or expulsion of asylum-seekers.**

## Reply

62. In reply to this observation, it is important to note that the general rule in Icelandic administration law is that appeals against decisions made by a lower executive authority may be lodged with the minister unless other provisions are laid down in law (see article 26 of the Administrative Procedure Act, No. 37/1993). This reflects the division of the executive system into levels and the supervision of lower levels by the higher authorities.

63. It follows from the constitutional structure, whereby Iceland is a republic with a parliamentary government, that the *Althingi* monitors the work of the executive authorities. General legislation, and also the provisions of the Constitution, grant the *Althingi* various remedies for this purpose. Furthermore, it follows from articles 2 and 13 of the Constitution, that ministers are, in fact, the supreme authorities over the executive, each in their own field. It follows from article 14 of the Constitution that ministers are responsible towards the *Althingi* for all executive functions; this is because ministers exercise supreme control over the affairs coming under their authority. In practice, however, it has been considered that the legislature may decide, in legislation, that an institution or an executive committee is to be independent, and consequently exempted from the overall authority and supervision of the minister under whose control it would otherwise fall. In such cases, an exemption is made from the general rule, which is that ministers are in overall charge of the executive functions under their authority. Thus, once independent executive committees are established, appeals may not be lodged with the minister against decisions for which they are responsible.

64. When the legislature relieves a minister of the authority to administer and monitor a specific institution, it relieves him at the same time of ministerial responsibility and responsibility towards the *Althingi* in connection with the exercise of that authority. The resulting legal position is that no one is responsible towards the *Althingi*. Consequently, the view has been taken in Iceland that independent executive authorities should only be established in exceptional circumstances where the advantages of such an arrangement can be seen as outweighing the disadvantages as described above.

65. A decision taken by the Minister of Justice and Ecclesiastical Affairs which confirms the decision of the Directorate of Immigration to turn down an application for asylum and to deport an asylum-seeker may be brought before the courts. It follows from articles 2 and 60 of the Constitution that the courts are to resolve disputes as to whether the executive authority has based its decisions on relevant considerations, and whether it has acted in accordance with law and within the law. Thus, the Icelandic courts establish whether decisions by the executive authorities meet the general formal and substantive requirements of administrative law. In addition to this, an asylum-seeker is able to refer his case to the Parliamentary Ombudsman, whose role is to monitor state and municipal administrations on behalf of the *Althingi* and to defend citizen's rights vis-à-vis government authority. The Parliamentary Ombudsman is to ensure that the principle of equality is observed in public administration and that administrative functions proceed in accordance with the law and sophisticated practice. In his work, the Parliamentary Ombudsman is independent and not under instructions from any other party, including the *Althingi*.

66. No provision has been made in the aforementioned (para. 23) draft legislation amending the Foreign Nationals Act, No. 96/2002, which is now under consideration by the *Althingi*,

in order to alter the traditional channels of appeal in cases of this type. Asylum-seekers' security under the law is considered sufficiently guaranteed by them having the opportunity to refer a decision by a lower authority to a higher authority, and to bring decisions by the higher authority before the courts and/or, according to the circumstances, to the Parliamentary Ombudsman.

### **I. Concluding observation referring to national human rights institutions**

67. The Committee noted the absence in Iceland of a national human rights institution that conforms to the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (CERD/C/ISL/CO/18, para. 16):

**The Committee invites the State party to consider the establishment of a national human rights institution in accordance with the Paris Principles.**

### **Reply**

68. This possibility has been discussed and it is widely understood in Iceland that national human rights institutions (NHRIs) have increasingly been recognized by the international community as mechanisms that are integral to ensuring respect for, and effective implementation of, international human rights standards at the national level. They play an important role in encouraging states to ratify treaties, submit reports to treaty bodies and monitoring the effective and full implementation of concluding observations and recommendations.

69. However NHRIs that comply with the Paris Principles can be established in different ways and exist today in many different forms. The Icelandic authorities note that though an NHRI has not been established in Iceland in accordance with the Paris Principles, it does not mean that there is a gap in human rights protection in Iceland. On the contrary, the level of human rights promotion and protection in Iceland is high. The Icelandic Government wishes to inform the Committee of the existence of several institutions and organisations that are directly charged with human rights protection, e.g. the Icelandic Human Rights Centre, the University of Iceland's Institute of Human Rights, the Parliamentary Ombudsman, the Ombudsman for Children and the Centre for Gender Equality. Under the present circumstances, no decision has yet been taken on the establishment of an NHRI in Iceland in accordance with the Paris Principles.

### **J. Final concluding observations**

70. Furthermore, in its concluding observations, the Committee encouraged Iceland to consider ratifying the Convention relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961 (CERD/C/ISL/CO/18, para. 17). In this connection, it should be mentioned that Iceland considers most of the principles expressed in these conventions already to be ensured in Icelandic legislation. On the other hand, Iceland is giving these conventions particular attention and is currently considering their ratification. The Committee also urged Iceland to complete the ratification process of the Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems; Iceland signed the protocol referred to on 9 October 2003 and is currently considering its ratification.

71. In a concluding observation the Committee recommends that Iceland take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level (CERD/C/ISL/CO/18, para. 18). Iceland has not drawn up any programme of action or taken any other measures in order to implement the Durban Declaration, but is currently considering taking such measures. In this context, however, it must be stated again that Iceland has taken various measures designed to combat racial hatred and racial discrimination that must be regarded as being compatible with the aims of the Durban Declaration. An example of this is the policy adopted by the Government on foreign nationals, as described in paragraphs 11-14 above. In other respects, reference should be made to the information provided in paragraphs 25-31 of the report.

72. Finally, regarding the Committee's recommendation that Iceland continue to publicize its periodic reports to the Committee, as well as the concluding observations of the Committee on these reports (CERD/C/ISL/CO/18, para. 19), it should be mentioned that the Ministry of Justice and Ecclesiastical Affairs maintains a homepage where all published materials issued by it and reports on international collaboration are published. This includes a special item for reports to international human rights committees, carrying the Government's reports on measures to give effect to international human rights conventions. The Government's reports on measures to give effect to the Convention on the Elimination of all Forms of Racial Discrimination have been published on the Ministry's homepage. The Ministry also issued a press release in connection with the Committee's concluding observations following consideration of Iceland's seventeenth and eighteenth reports in August 2005. The Ministry intends to continue to publish its reports to the Committee on its homepage, as well as the Committee's observations following consideration of the reports.

### **III. INFORMATION REGARDING THE IMPLEMENTATION OF ARTICLES 2 TO 7 OF THE CONVENTION**

#### **A. Article 2**

73. No legal or administrative provisions in Iceland condone racial discrimination. Such provisions would obviously be in violation of the constitutional principle of equality which has been examined above. Consequently, the courts would ignore such provisions in their judgements. Furthermore, the Icelandic authorities have not instigated or supported measures involving racial discrimination.

74. An account has been given in paragraphs 11-16 above of the Icelandic Government's overall policy on immigrants, under which various measures are to be taken to improve their position with regard to the social services, health services, education, employment, information, child welfare, etc. The aim of the measures is to enable immigrants to enjoy the same opportunities as Icelandic nationals and to become active participants in the community. As has been stated above, the Minister of Social Affairs has commissioned the Immigration Council to produce a comprehensive plan of action on immigrants' issues in accordance with the aforementioned policy.

### **B. Article 3**

75. Racial segregation and apartheid have not been practised in Iceland, and consequently there has not been considered reason to take special legal, judicial or administrative measures, or other measures, on the basis of this article. It should be pointed out that all actions involving racial segregation and apartheid would be in violation of article 65 of the Constitution.

### **C. Article 4**

76. As has been mentioned above (para. 34), articles 180 and 233 (a) of the General Penal Code, No. 19/1940, contain provisions which are designed to provide protection against racial discrimination. Under the first paragraph of article 180 of the General Penal Code any person who denies a person goods or services on the same basis as other people on the grounds of his or her nationality, colour, race, religion or sexual orientation is liable to a fine or up to six months' imprisonment. The same applies, under the second paragraph, to deny a person access to any public area or other places that are open to the public on the grounds mentioned above. Furthermore, article 233 (a) of the General Penal Code provides for the imposition of a fine or of up to two years' imprisonment on any person who attacks a person, or a group of persons, in public with mockery, slander, insult, threat or in another manner on the basis of their nationality, colour, race, religion or sexual orientation. In the light of these provisions, it is clear that Iceland has enacted laws in various areas with the intention of preventing racial discrimination. The aim of these provisions is to fulfil Iceland's obligations under the United Nations Convention on the Elimination of all Forms of Racial Discrimination.

77. An account was given in Iceland's last periodic report (CERD/C/476/Add.5, para. 39) of the Supreme Court's judgement of 24 April 2002 in Case, No. 461/2001, sentencing the defendant for a violation of article 233 (a) of the General Penal Code. The defendant had been charged with having, by certain expressions made in a weekend newspaper interview, publicly assaulted an indefinite group of people by ridicule, calumny and humiliation on account of their nationality, colour and race. The Court ruled that it was necessary to assess which of two interests was to be given precedence, the defendant's freedom of expression or the right of others not to have to suffer attacks because of their nationality, colour or race. The Court ruled that the defendant's expressions in the newspaper interview in question were of the nature of unfounded generalisations, as valid arguments for racial superiority were difficult to find. Viewing the newspaper interview in its entirety, the Court found that it was obliged to conclude that the defendant's comments sought, by ridicule, calumny and humiliation, to aggrandise people of the white race at the expense of people of other skin colour. The defendant's expressions therefore involved conduct obviously coming under the description of the act presented in article 233 (a) of the General Penal Code. This provision was designed to prevent racial discrimination and racial hatred; consequently, its purpose was lawful and the limitations it imposed on freedom of expression were necessary and in agreement with democratic traditions (for further details see the text of the judgement in document CERD/C/476/Add.5, para. 39).

78. According to information from the Director of Public Prosecutions, no complaints have been received on account of alleged violations of article 180 of the General Penal Code. However, since the passing of the above-mentioned judgement in the Supreme Court Case, No. 461/2001, the Directorate has received four cases in which charges were made alleging violations of article 233 (a) of the General Penal Code. All four cases were dismissed, however,



as it was not considered that the evidence revealed during investigation would be sufficient or likely to result in a conviction (see article 112 of the Code of Criminal Procedure, No. 19/1991). One of these cases involved an alleged derogatory remark about a person's colour, and another involved an alleged derogatory remark about homosexuals. Two of the cases involved alleged actions involving attacks on a group of people on the grounds listed in article 233 (a) of the General Penal Code, regarding their religion. According to information from the police, no cases have been submitted to the police involving alleged violations of article 180 of the General Penal Code. On the other hand, the police are currently investigating two cases involving alleged violations of article 233 (a) of the General Penal Code involving derogatory comments on the Internet about individuals of Icelandic and foreign origin.

79. Under article 74 of the Constitution, associations, including political associations and trade unions, may be formed without prior permission for any lawful purpose. Associations may not be dissolved by an administrative decision. The activities of an association found to be in furtherance of unlawful objectives may, however, be prohibited, in which case legal action shall be brought without undue delay for a judgement dissolving the association. Under this provision of the Constitution, associations must have lawful purposes in order to qualify for the protection offered by the provision. An association whose objective is to attack a group of people on the grounds of their nationality, colour, race or religion by means of ridicule, calumny, humiliation, threats or in another manner would be regarded as having an unlawful objective, since these actions are punishable under article 233 (a) of the General Penal Code. No association has been dissolved by executive order in the past few decades and no case has been brought before the courts for the disbandment of an association with the purpose of attacking a group of persons on the grounds of their nationality, colour, race or religion.

80. Under article 5 of the Broadcasting Act, No. 53/2000, the Broadcasting Rights Committee may temporarily block television broadcasts from other states in the European Economic Area if the broadcast is considered to be able to encourage hatred on grounds of race or nationality.

81. Under the Data Protection Act, No. 77/2000, data on origin, colour, race, political opinions and other beliefs is defined as sensitive and the processing of such data is prohibited except in accordance with a licence, which is subject to certain requirements.

82. Increasing public discussion is taking place in the Icelandic media on prejudice towards immigrants. It has been revealed, for example, that nearly 700 people, mostly young people, have registered in a group on the Internet called *Félag gegn Pólverjum á Íslandi* (Society against Polish people in Iceland); the site has published derogatory remarks about Polish residents in Iceland. The founder of the group says he is a fourteen-year-old boy, resident in the metropolitan area, and the registered members include teenagers as young as thirteen years old. This matter is being investigated by the Metropolitan Police. It should be mentioned that it is very difficult to take measures against offensive or derogatory comments against foreigners on the Internet when the homepages in question are hosted on foreign Internet servers.

#### **D. Article 5**

83. The rights defined in this article of the Convention are guaranteed by law to all persons in Iceland's jurisdiction, irrespective of their race, colour, nationality or national origin. This protection follows from article 65 of the Constitution, as amended by the Constitutional Act,

No. 97/1995, and from individual provisions in general legislation which guarantee individual equality in Iceland and prohibit discrimination, as has been described in paragraphs 4 and 5 of the present report.

84. By way of example, it may be mentioned that article 76 of the Constitution, as amended by the Constitutional Law Act, No. 97/1995, provides that all persons who are in need shall be guaranteed by law the right to assistance in connection with illness, disability, old age, unemployment, poverty or comparable circumstances. Immigrants have the same rights as others to such services and assistance. Under the Social Security Act, No. 100/2007, all those who are permanently resident in Iceland are insured, provided that they meet certain other conditions, unless other provisions are made in international agreements. Icelandic citizenship is not a condition, and does not, in itself, grant the right to social security. Permanent residence is not however a condition for accident insurance cover; workers employed in Iceland are covered by accident insurance while at work. Furthermore, immigrants have the right to services and assistance, provided that they have legal residence in Iceland, for example, according to the Local Authorities' Social Services Act, No. 40/1991, and the Disabled Persons Act, No. 59/1992.

85. The aforementioned (para. 37) parliamentary resolution on a four-year plan of action which the *Althingi* approved in June 2007 to improve the position of children and young persons and their families, allows for measures in the health and social services for this purpose. Provision is made for a special programme at the health clinics involving pre-natal examinations and infant care to take account of the needs of parents who are of foreign origin. The intention is also to draw up a special plan covering assistants for teenage immigrants and, to enter into special consultation with the Union of Local Authorities on ways of improving social services for children of foreign origin, and immigrant families.

86. A multidisciplinary conference on the subject of immigrants and mental health was held in the Reykjavik City Hall on 10 October 2007, to mark International Mental Health Day. The WHO had decided that International Mental Health Day 2007 was to be devoted to mental health in the context of multiculturalism and variety, with emphasis placed on remedial measures for minority groups, persons of foreign origin, immigrants, refugees and others. Statistical information from other countries in Europe indicates that mental discomfort and disturbances resulting from stress and strain are more common among immigrants than other groups. At the conference in Reykjavik, an attempt was made to highlight various factors relating to immigrants and mental health. In his opening address, the Minister of Health said the information from the WHO indicated that there was a need to keep immigrants' social circumstances under particular attention; the Minister hoped that the parties involved would succeed in establishing realistic methods of meeting the needs of new Icelanders for health service.

87. Paragraphs 14-24 of Iceland's last periodic report gave an account of the main substance of the Foreign Nationals Act, No. 96/2002, which took effect on 1 January 2003. The Act provides for the legal standing of foreign nationals who come to Iceland or leave the country, reside in the country or apply for permits under the Act. Reference is hereby made to the discussion in the previous reports. Since the above-mentioned reports were submitted, the Foreign Nationals Act has been amended twice. The first of these amendments was made by the Act of amendment, No. 20/2004, which among other things gave effect to the adaptation provisions of an agreement concerning the enlargement of the European Union and the European Economic Area which

entered into effect on 1 May 2004. The other amendment was made by the Act of amendment, No. 106/2007, which postponed the implementation of articles 35 and 36 of the Foreign Nationals Act regarding foreign nationals from other EEA or EFTA states until 1 January 2009 in the case of citizens of Bulgaria and Romania.

88. As mentioned above (para. 23), the Minister of Justice and Ecclesiastical Affairs presented a bill to the *Althingi* in January 2008 to amend the Foreign Nationals Act, No. 96/2002. The bill does not involve a comprehensive review of the current act; instead, it proposes certain amendments to take account of the experience gained of the application by the Foreign Nationals Act and Iceland's undertakings under the EEA Agreement and the Schengen cooperation.

89. The bill is intended, firstly, to bring the provisions of the Foreign Nationals Act into line with those of the Foreign Nationals' Right to Work Act. In the bills on the amendment of the two Acts, the categories of work permit, on the one hand, and residence permit, on the other, are harmonized. The draft legislation amending the Foreign Nationals Right to Work Act proposes more types of work permits, and it was consequently seen as necessary to have these reflected in the categories of residence permits. Furthermore, an attempt is being made to emphasise the policy that foreign nationals' arrival in Iceland and residence in the country should be for a declared and lawful purpose, and to have the rules on residence take account of the purpose.

90. Under the bill, it will be possible to issue temporary residence permits to foreign workers for jobs which call for specialist skills, or in view of a shortage of labour, for work in the field of sport, under an agreement made between Iceland and another state concerning residence in Iceland by the nationals of that state in order to acquaint themselves with the country and its culture, for au-pair work and for study in Iceland. The bill includes a new provision concerning the status of young persons who come to Iceland to stay under article 13 of the Foreign Nationals Act, which covers temporary residence permits for family members. On reaching the age of 18, young persons who have come to stay in Iceland shortly beforehand on grounds of reuniting families will no longer have the same right to stay in the country under article 13. According to the present Foreign Nationals Act, there is no obstacle to issuing student residence permits in connection with industrial training courses or granting them residence permits on the basis of employment if they have been active on the labour market. On the other hand, the young persons in question are frequently pursuing studies at secondary school, and this amendment seeks to ensure them the right to continue to reside in the country, under a student residence permit, even though their studies would not otherwise be regarded as sufficient basis for student residence permits.

91. As before, it will be possible to grant foreign nationals temporary residence permits on substantial humanitarian grounds. A foreign national who has applied for asylum may also be granted a temporary residence permit until a decision is taken on his application. Also, the immediate family of an Icelandic or other Nordic citizen who is permanently resident in Iceland, or of a foreign national who is resident in Iceland in accordance with a temporary or permanent residence permit may be granted a temporary residence permit on application, providing that the other provisions of the Act are met. One innovation in the bill is that temporary residence permits for immediate family members will not be granted if the immediate family member has been convicted by a court, or placed under security surveillance, for violations of certain provisions of the General Penal Code, No. 19/1940. This provision is intended as a weapon in the fight against trafficking in human beings and domestic violence, and is modelled on, for

example, Danish and Norwegian law. On the other hand, it is not envisaged that an application for a residence permit should be turned down if this would constitute unfair treatment of the perpetrator of the offence or his immediate family. When assessing this, attention must be given to considerations such as the nature and seriousness of the offence, the parties against whom it was directed and whether the offence was repeated.

92. Secondly, the aforementioned bill aims at giving effect to Directive, No. 38/2004/EC, on the right of citizens of the European Union and their family members to move and reside freely within the territory of the Member States. The directive consolidates into a single act all the principal rules that have applied to the right of foreign nationals of EEA and EFTA states to travel and reside freely in other states within the EEA. The new directive involves considerable substantive changes regarding the right to move and reside freely within the EEA, some of which take into account the interpretation of the European Court to provisions stating the right. For example, residence permits for foreign nationals from EEA/EFTA states are abolished; on the other hand, foreign nationals from EEA/EFTA states are obliged to register themselves in the country, since their right of residence is separate and is not contingent on the issue of a residence card. Clearer provisions are also stated concerning the right of family members of foreign nationals from EEA/EFTA states to accompany them and reside in the country, and also on restrictions that member states may impose regarding the expulsion of foreign nationals from EEA/EFTA states and their families. Provisions are also made regarding the right of foreign nationals from EEA/EFTA states to reside permanently in another EEA state after living there for some time.

93. Thirdly, the bill proposes the incorporation in Icelandic law of the provisions which are currently in the Regulation on foreign nationals, No. 53/2003, with subsequent amendments. This applies in particular to the provisions on individual categories of residence permits and the rights that they confer, and also to the provisions on passport visas, etc. This is intended to reinforce the legal framework available to the government authorities involved with these issues. In addition, the bill takes into account the experience gained from the application of the Foreign Nationals Act. Thus, for example, it includes provisions to meet the circumstances of young persons who are resident in Iceland with their parents by enabling them to continue with their studies in Iceland after they attain the age of 18 years. Moreover, the 24-year age requirement applying to spouses for qualifying for residence permits as immediate family members is amended to reflect the practice developed in the application of this provision, as has been outlined above.

94. Paragraph 45 of Iceland's last periodic report discussed the Foreign Nationals' Right to Work Act, No. 97/2002, which took effect on 1 January 2003. One of the aims of the Act was to ensure the legal position of foreign nationals who come to Iceland to pursue employment and to make provisions covering foreign nationals' right to work in the country, providing certain conditions are fulfilled.

95. Amendments have been made to the Foreign Nationals' Right to Work Act six times since it was passed. The Act of Amendment, No. 84/2003, brought the Act into line with the provisions of the new EFTA Convention (established by the Vaduz Agreement) so that the rules of the EEA Agreement on the free movement of persons also applied to EFTA states that were not members of the EEA. The Act of Amendment, No. 19/2004, gave effect to the adaptation provisions of an agreement concerning the enlargement of the European Union and the

European Economic Area which entered into effect on 1 May 2004. Minimal changes were made on the Act with the Temporary-Work Agency Act, No. 139/2005. The Act of Amendment, No. 26/2006, gave effect to the provisions of Council Regulation, No. 1612/68/EEC, with subsequent amendments, on the free movement of workers within the EEA as applied to the citizens of Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, the Czech Republic and Hungary. The Act of Amendment, No. 108/2006, introduced changes into the Foreign Nationals' Right to Work Act to reflect an agreement between the Icelandic Government, on the one hand, and the Government of Denmark and the home-rule administration in the Faroe Islands, on the other. Its aim was to establish a common economic area in the jurisdictions of Iceland and the Faroe Islands. Finally, the Act of Amendment, No. 106/2007, had the purpose to defer the entry into force of the provision of item *a* of article 14 of the Foreign Nationals Right to Work Act, concerning foreign nationals from EEA/EFTA states until 1 January 2009 in the case of citizens of Bulgaria and Romania.

96. As has been mentioned above (para 23), the Minister of Social Affairs presented a draft legislation to amend the Foreign Nationals' Right to Work Act, No. 97/2002, to the *Althingi* in January 2008. The main aim of this bill is to clarify the Act, to make its application more effective and to ensure active monitoring on compliance. It proposes for the adoption of new categories of temporary work permits reflecting the ground on which foreign nationals are working in Iceland. The general explanatory notes accompanying the bill underline the priority of maintaining equilibrium between supply and demand for labour on the domestic labour market, as it is important to consider the long-term effects that work permits to meet temporary shortages of labour could have on the labour market in the long term. Furthermore, the notes state, it is necessary to take into account the experience gained on the expansion of the EEA over the past three years.

97. Temporary-work agencies began offering their services on a larger scale in Iceland in 2005. In response to the resultant change in the Icelandic labour market, the Temporary-Work Agency Act, No. 139/2005, was enacted in December 2005; before that time, no legislation had existed in this area in Iceland. One of the aims of the Act was to strive to guarantee that foreign workers would enjoy social rights on the same basis as Icelanders and to remove all doubt as to the applicability of Icelandic collective agreements, irrespective of whether the employees stand in a direct contractual relationship with companies in Iceland or are employed in Iceland through a temporary-work agency.

98. The Temporary-Work Agency Act contains various provisions designed to protect the rights of those employed by temporary-work agencies. Temporary-work agencies are under an obligation to enter into written employment contracts with their employees and to provide written information on the work which the employee is sent to carry out in Iceland in each individual instance before the work commences (article 8 of the Act). Temporary-work agencies are not permitted to demand payments from their workers, or negotiate or receive such payments from them in exchange for offering them employment (article 5 of the Act). Furthermore, temporary-work agencies are not permitted to restrict the right of an employee who has been hired to a user company to enter into a contractual relationship with that company at a later date (article 7 of the Act). The Directorate of Labour is responsible for monitoring the application of the Act, and temporary-work agencies are obliged to provide the Directorate of Labour with the information it considers necessary in order to monitor application, including employment contracts and details of wages and terms of service. Under article 11 of the Act, the Directorate

of Labour may, if certain conditions have been met, demand that the police close the operations of a temporary-work agency temporarily until action has been taken to remedy an unsatisfactory situation.

99. The Act on the rights and obligations of foreign undertakings that post workers temporarily in Iceland, and on their workers' terms of employment, No. 45/2007, replaced the Act on the Legal Status of Employees Working Temporarily for Foreign Enterprises in Iceland, No. 54/2001, which was mentioned in paragraph 46 of Iceland's seventeenth and eighteenth reports. It applies to companies which are established in other states within the EEA, EFTA or the Faroe Islands and send workers to Iceland on a temporary basis in connection with the provision of services, and to temporary-work agencies. It is intended to provide the Icelandic authorities with a better overview of the situation on the domestic labour market as regards the activities of foreign service-providing companies in Iceland and the numbers of foreign workers employed by such companies. It is also intended to ensure that Icelandic law and collective agreements apply to the workers concerned, and that foreign nationals who come to Iceland on a temporary basis under the auspices of foreign companies are lawfully resident in the country, and that reliable information is available concerning them.

100. The Legal Domicile Act, No. 21/1990, was amended by the Act of Amendment, No. 67/2007, so as to make it illegal to register an individual's legal domicile in premises in an area which is designed for commercial purposes, with certain exceptions to be laid down in regulations. However, residence may be permitted in workers' residences, with their domiciles being registered there, if the requisite permits are obtained from the authorities. Broadly, the requirements regarding safety and facilities in such premises are the same as those that are made regarding guesthouses. The Act enables individuals who live in such workers' residences, including foreign nationals, to qualify for the rights associated with the registration of legal domicile in Iceland, including the right to social security.

101. The Icelandic Nationality Act, No. 100/1952, was amended by Act, No. 81/2007. Under the amendments, the conditions which foreign nationals must meet in order to be granted permanent residence permits in Iceland under the Foreign Nationals Act, No. 96/2002, were brought into line with the conditions which they must meet in order to be granted Icelandic citizenship. The Act lays down the policy that applicants for citizenship shall already have met the conditions for permanent residence permits, and other requirements, and shall have been issued with such permits before they apply for citizenship, unless they have been exempted from the requirement to hold residence permits in Iceland. The Act also affirms the general principle that the power to grant Icelandic citizenship rests fundamentally with the *Althingi*. Thus, ministerial authority to grant citizenship is restricted to cases in which there is no doubt that the applicant meets the conditions of the Act, and the minister is at all times able to refer disputed cases to the *Althingi* for resolution. Furthermore, new conditions were set for the granting of Icelandic citizenship by an executive decision by the Minister of Justice; these include a requirement that the applicant be solvent and have passed a test in Icelandic according to requirements issued by the minister in the form of a regulation. However, the regulation is to include provisions exempting applicants from these requirements in cases where it would be unfair to impose on them. It was considered necessary that Icelandic citizens should be in possession of at least sufficient command of the Icelandic language to be able to communicate with the public and with the authorities. However, the provisions requiring a knowledge of the

Icelandic language on the part of applicants for Icelandic citizenship do not take effect until 1 January 2009, the postponement being designed to provide an opportunity to build up Icelandic-teaching facilities.

102. Provisions exist in many statutes for foreign nationals to have access to the service of interpreters. For example, article 13 of the Code of Criminal Procedure, No. 19/1991, states that if an accused person, witness or other party who gives testimony before a court does not have sufficient command of Icelandic, then an authorised interpreter is to be called in to assist him. The second paragraph of article 10 of the Code of Civil Procedure, No. 91/1991, states that if a person who gives testimony before a court does not have a sufficient command of Icelandic, then the party who arranged for the giving of testimony is to call in an authorised court interpreter. The right to information is one of the fundamental rights of patients. Under article 5 of the Patients' Rights Act, No. 74/1997, patients have the right to information concerning, e.g., their state of health and proposed medical treatment. If they do not speak Icelandic, they are guaranteed access to the information interpreted into another language under this article.

103. Article 6 of the Act on Extradition of Criminal Offenders and Other Assistance in Criminal Matters, No. 13/1984, provides that a person shall not be extradited if there is an appreciable risk that, after being extradited, he will be subjected to injustice or persecution which is directed against his life or freedom, or is otherwise of a serious nature, on account of his race, nationality, religion or political opinion, or on account of political conditions in other respects.

104. Article 7 (b) of the Act on International Co-operation on Enforcement of Criminal Judgements, No. 56/1993, permits the denial of a request for the execution of a sentence if there is a reasonable ground to believe that the judgement was rendered, or heavier sanctions ordered, on account of the sentenced person's race, nationality or political opinion.

105. In January 2008, the Minister of Social Affairs appointed a task committee group to examine methods of producing and applying a comprehensive plan of action against trafficking in human beings in Iceland. The aim is to establish a better mechanism to prevent human trafficking. This will involve a more detailed survey of the extent of trafficking in human beings and the submission of proposals on preventive methods and ways of raising public awareness. It is also important to ensure availability of assistance for victims, ensuring their protection, and to establish measures for bringing the perpetrators to justice. The task committee includes representatives of the Ministry of Social Affairs, the Ministry of Justice, the Ministry of Health, the Centre for Gender Equality, the Icelandic Red Cross, the City of Reykjavík, the Union of Local Authorities in Iceland, the Women's Refuge and *Stígamót*, a society which supports campaigns against rape and gender-based violence and supports the victims of such offences.

#### **E. Article 6**

106. Individuals who consider that they have been discriminated against in Iceland on grounds of their, ethnic origin, race or colour are able to refer their cases to the courts, the executive authorities and the Parliamentary Ombudsman.

107. Article 70 of the Constitution, as amended by the Constitutional Law Act, No. 97/1995, provides for the right of all individuals to the determination of their rights and obligations or, in the event of a criminal charge against them, to have the matter settled within a reasonable time

and following a fair trial by an independent and impartial court of law. Court hearings are to take place in public, unless the judge decides otherwise as provided for by law in the interest of morals, public order, the security of the State or the interests of the parties. Under article 70 (2) of the Constitution, all persons charged with criminal offences are to be considered innocent until proven guilty. This provision applies to all persons within the jurisdiction of the Icelandic state, irrespective of whether they are foreign nationals or Icelandic citizens.

108. In this connection, mention may be made of the ruling by the Parliamentary Ombudsman on 16 May 2001 in Case, No. 3137/2000, concerning the rejection by the authorities of an application by a foreign national for a permit to reside in Iceland. In his ruling, the Ombudsman stated that he considered there was no reason, in view of the wording of article 70 (1) of the Constitution, and the notes accompanying the bill which was passed as the Constitutional Law Act, No. 97/1995, to place so narrow an interpretation on this provision that a foreign national who enters Iceland on unlawful premises could not have access to the courts. On the contrary, the Ombudsman concluded that it was essential to take the view that such a person could have a constitutional right to refer his case to the courts, at least in cases where the issue at stake was a dispute between him and the authorities as to whether his right to stay in Iceland should be recognised according to law.

109. As described in paragraph 77 above, the Supreme Court convicted an individual of having violated article 233 (a) of the General Penal Code, No. 19/1940, in Case, No. 461/2001 (judgement delivered on 24 April 2002). The defendant was found guilty of having, by certain comments in an interview in a weekend newspaper, publicly attacked an unspecified group of people on grounds of their nationality, colour and race. He was sentenced to pay a fine of ISK 100,000 to the Treasury.

110. The Supreme Court's judgement of 18 June 2004 in Case, No. 52/2004, concerned the expulsion of a foreign national from Iceland. The Government had sought to base its decision to expel the foreign national on an authorisation based on the view that the presence of the person in the country threatened the public interest. Consequently, it was considered that under article 10 of the Administrative Procedure Act, No. 37/1993, the authorities should have made a special examination of whether his mental condition was such as to meet the requirement for this authorisation to apply. The Court ruled that the Government could not avoid doing this because of the possible costs involved or the delay that would result, relying instead on assumptions about the foreign national's mental health which were based on medical records dating from 1995, and also without taking into account that he had been released from security surveillance in his home country four years later. The majority of the bench considered that the procedure on the part of the Directorate of Immigration had been so seriously flawed that there was no alternative but to annul the ruling by the Ministry of Justice and Ecclesiastical Affairs, which had upheld the decision by the Directorate of Immigration to revoke the foreign national's residence permit and expel him from the country. From this case, it is clear that the courts in Iceland make stringent requirements regarding the examination by the executive authorities of matters that may be of significance in establishing whether there is a basis in law for expelling foreign nationals from the country.

111. In its judgement of 8 December 2005 in Case, No. 499/2005, the Supreme Court upheld the district court ruling dismissing a claim by an individual that he be granted the legal status of a refugee, and be granted asylum as such in Iceland, and also his claim that he be granted a



residence permit in Iceland on humanitarian grounds. The district court dismissed the claims on the grounds that it was not within the powers of the courts to grant asylum or residence permits; this was a matter to be decided by the executive authorities.

112. During the period covered by the present report, the Parliamentary Ombudsman has considered three cases involving foreign nationals; he investigated one of these cases on his own initiative. The background to one of these cases lay in reports and accounts in the media to the effect that foreign nationals who came to Iceland to pursue employment, particularly from EEA states, had difficulty with being issued personal identification numbers and residence permits, and that there were difficulties with their children being admitted to school. The Parliamentary Ombudsman's attention is being directed towards the general handling of these matters by the authorities and whether it, and the legal provisions involved, were in all respects compatible with the country's undertakings according to the EEA Agreement. The other two cases involved, on the one hand, denial of entry into the country and, on the other, the rejection of an application for extension of a residence permit. The Children's Ombudsman has received several cases involving children of foreign origin; none of them involve racial discrimination against children.

113. Mention was made in paragraph 12 of Iceland's last periodic report of the establishment in 2001 of the position of a liaison officer between the police and people of foreign origin in Reykjavík. His task is to provide foreigners with information of all kinds concerning the police and relations with the police, e.g. informing them about procedures and as to whether certain matters can be referred to the police. The officer in question does not receive or investigate any complaints, but assists by referring people to the proper authority. This work is carried out in close cooperation with the Intercultural Centre. The officer also attends regular meetings with institutions and non-governmental organisations that are involved with issues concerning foreign nationals. In opening this office, emphasis was placed on reaching to persons who need guidance by reason of harassment or discrimination on account of their origin, and encouraging them to contact the police. According to information submitted by the officer, two cases involving allegations of racial discrimination have come to his attention since Iceland submitted its last reports in 2004, but in neither case did the parties involved wish to take further action.

#### **F. Article 7**

114. Under the second paragraph of article 76 of the Constitution, as amended by the Constitutional Law Act, No. 97/1995, all persons are to be guaranteed by law the right to suitable general education and tuition. The right to education is also protected under article 2 of Protocol 1 to the European Convention on Human Rights (Act No. 62/1994). The right to education applies to all persons living in the jurisdiction of the Icelandic state.

115. Due to increased immigration to the country, the Government continues to place emphasis on education as a tool to prevent problems involving racial discrimination. The Government believes that education and enlightenment will provide the best solutions to problems involving racial discrimination. Language skills are one of the most important keys for entering a new society, and a prerequisite for full participation of foreign nationals in the community and their integration into Icelandic society.

116. Considerable growth has taken place in recent years in Icelandic language teaching and teaching on the Icelandic society for adult foreign nationals. In 2006, ISK 20 M was spent on work of this type; in 2007 the figure allocated was ISK 200 M, and the same amount is allocated in the current year (2008). Much development has taken place in teaching techniques and many experimental projects are under way, not least those involving teaching in the workplace. On the other hand, there is a shortage of specialised teachers who are able to teach Icelandic as a second language. Work is under way in the Ministry of Education, Culture and Science on a syllabus and an assessment scale for courses in Icelandic. Many bodies offer lessons in Icelandic as a second language for adults; these range from recognised educational institutions and organisations running continuing education programmes. Some companies where immigrants form a significant proportion of the workers also offer Icelandic teaching in the workplace.

117. Work has been done on a large number of projects at the Ministry of Education, Science and Culture in recent years for children and teenagers whose mother tongue is not Icelandic. Developmental work of many types has been done in the primary schools to develop teaching suitable for children whose mother tongue is not Icelandic. Individual local authorities, including the City of Reykjavik, have developed policies to cater for the needs of children of foreign origin, including teaching in Icelandic and their own languages and matters concerning their registration and reception in the primary schools. The Intercultural Centre has supported an interpreting service, as far as it has been able to do so, and educational advisors have been in charge of work in this area, with support of the Local Authorities' Equalization Fund. Great changes have taken place in Icelandic society, and the numbers of children and teenagers whose mother tongue is not Icelandic have risen sharply. Consequently, it has been necessary to clarify their legal standing in connection with schooling and to make assistance to them and their families more visible and more accessible.

118. A conference was held in March 2007 on immigrants and the secondary school system. The conference was televised live on the website of the Icelandic College of Education in order to make it accessible to teachers and other interested persons outside the metropolitan area. It examined the secondary school education available to young immigrants and the measures taken to meet their needs in the Icelandic secondary school system. Representatives of the schools, including principals, teachers, pupils and parents aired their views, and there was also some input from a theoretical viewpoint. The aim of the conference was to stimulate discussion and urge the Government to present a policy involving real solutions in this area. The conference was a joint project organised by the Ministry of Education, Culture and Science and a large number of other bodies.

119. The aforementioned (para. 37) parliamentary resolution on a four-year plan of action to improve the position of children and young persons and their families, which was approved by the *Althingi* in June 2007, included provisions on various measures in the sphere of education which were intended to give support to the children of immigrants by means of targeted Icelandic teaching and reception programmes in the schools, offering a comprehensive approach to the needs of each and every child. The parliamentary resolution provides for the following measures, amongst others, to be taken regarding education:

(a) Steps should be taken to have issues concerning children for whom Icelandic is a second language addressed in the general primary school curriculum. These include training in Icelandic and participation in cultural activities, the maintenance of literacy and knowledge in all subjects and the stimulation of academic development;

(b) Steps should be taken to define the right of children of foreign origin who are in kindergarten to learn Icelandic, and to receive the appropriate linguistic stimulation;

(c) Steps should be taken to have the schools formulate measures by which parents and guardians of foreign origin are given an opportunity to participate in parents' activities, so supporting their children's education. Priority should be given to collaboration with the parents of children of foreign origin at all levels of the school system, and working rules should be formulated for the schools regarding the reception of immigrants' children;

(d) Steps should be taken to have the secondary schools make arrangements for support teaching in individual subjects for the children of immigrants;

(e) Moves should be made to support the development and publication of educational materials for teaching Icelandic as a second language at all levels of the school system, and also to facilitate the taking of examinations in Icelandic by pupils in the primary and secondary schools whose mother tongue is not Icelandic;

(f) Provisions should be made in the planned campaign to teach Icelandic to foreign nationals and to give special attention to the situation of parents of foreign origin.

120. The Minister of Education, Culture and Science presented three bills to the *Althingi* in November 2007 addressing children's education from the pre-school (kindergarten) level to the end of secondary school: one on pre-school education, one on primary schools and one on secondary schools. This is the first time that such comprehensive legislation and an overall policy on children's education has been proposed in Iceland. These bills take account of changes in society and employment, family structures and the growing numbers of people whose language is not Icelandic, and also the multicultural diversity of school pupils. The bills emphasise that education should be pitched at the level of the individual; this is seen as being of great benefit to children whose mother tongue is not Icelandic, and in addition, their special needs and strengths in various spheres are taken into account.

121. The bills include special provisions for children whose mother tongue is not Icelandic, and strengthens their legal position. The explanatory notes accompanying the bill on primary schools states specifically that the aim is to enact in law the general policy that schools should be without discrimination and should make their services available to all children irrespective of their origin, language, health or disability. This is in accordance with the United Nations Salamanca Declaration and the policy that has been in force in Iceland in recent years. It places an increased obligation on the schools to meet the particular needs of those pupils whose mother tongue is not Icelandic, or who use sign language, those who have reading difficulties and those who suffer from illnesses or disabilities. Under the second paragraph of article 24 of the bill on primary schools, the aim of study, teaching and the functions of the primary schools is to prevent discrimination on grounds of origin, gender, sexual orientation, place of residence, class,

religion, health, disability or other status. Within the primary schools, specialist services of various types are provided which are of particular benefit to children in this group, e.g. educational counselling, psychological services and special teaching.

122. The bills on junior and secondary schools contain new provisions on additional assistance for pupils whose mother tongue is not Icelandic. The primary school bill allows for the primary schools to prepare a special programme for the reception of pupils with other mother tongues, in accordance with the general curriculum. These pupils and their parents are also to be guaranteed counselling and access to information about the work of the primary schools. Parents whose native language is not Icelandic are to be informed of interpreting services, where these are available. Under the bills, junior and secondary school pupils will be entitled to teaching in Icelandic as a second language. The primary schools will be able to recognise proficiency in one's mother tongue as a part of compulsory education. The aim of teaching is to be able to maintain active bilingualism on the part of these pupils, enabling them to pursue their studies and to play an active part in Icelandic society. In accordance with the Government's policy and the United Nations Convention on the Rights of the Child, the aim is that these pupils will be given the opportunity to maintain their mother-tongue skills in accordance with further decisions to be taken by the local authorities. On the other hand, special mother-tongue language teaching is not required in law for all pupils, as it is not considered practicable to introduce this in all languages. However, it is recognised as being desirable that pupils should receive the opportunity to cultivate their mother-tongue language skills, e.g. as an elective subject or by distance learning, and to have this assessed as part of their primary school studies if the pupils themselves or their parents so request. The aim is also that secondary school pupils whose mother tongue is not Icelandic should have the opportunity to maintain proficiency in their mother tongue, either by distance learning or in another manner.

123. Paragraph 53 of Iceland's last periodic report mentioned the establishment of the Multicultural Centre on 30 July 2001, in accordance with the parliamentary resolution of 9 May 2000 on a centre for immigrants in the Western Fjords. This is a state project under the auspices of the Ministry of Social Affairs with the role of facilitating contact and communication between people of different origins and cultures, and to upgrade services for foreign nationals resident in Iceland. The Multicultural and Information Centre has grown substantially in the past year. It provides services for immigrants all over the country. In 2007 it received support in the form of new staff positions created in connection with the Government's programme of action to stimulate employment in the rural areas, and it now has 4.6 full-time-equivalent staff positions. The centre's main functions consist of making information available to people who do not speak Icelandic. It operates an information telephone service in four foreign languages and a teletext service, and provides individual assistance and advice. The centre maintains a teletext service carrying domestic news in two languages in collaboration with the National Broadcasting Service, and works in close collaboration with the Government's information service, [www.island.is](http://www.island.is), to provide information on the Internet.

124. The Multicultural and Information Centre is involved in many research and development programmes in collaboration with research institutions and other parties. At the beginning of 2008, a newly-appointed manager in charge of development projects will be located in the eastern region of Iceland, where she will be in charge of supervising development projects under way in the municipalities on the reception of immigrants and identifying successful measures

and methods that can be used by all the local authorities as a model in developing their services to immigrants. The centre's website may be examined at the following address:  
<http://www.mcc.is>.

125. In October 2007 The Immigration Council in Iceland, in collaboration with several other parties, published a booklet, *First Steps in Iceland*, containing useful information about Icelandic society for immigrants in Iceland. Versions are available in nine languages, with parallel text in Icelandic to enable those who are providing services and information to immigrants to introduce the information both in Icelandic and the language that the immigrants understand, and to help immigrants to learn key concepts in Icelandic by reference to their own languages. The languages are: English, Polish, Lithuanian, Vietnamese, Russian, Thai, German, Spanish and Serbian. Among other things, the booklet explains the ID-number system, residence permits, work permits, legal domicile, the tax system and social security. Main rights and obligations in Icelandic society are discussed and information is provided about local authorities, social services, health care, housing, the school system and learning Icelandic. Addresses, phone numbers and websites of important offices are presented and overview of NGOs to contact in crisis or in urgent need of help is given. The booklet can be accessed on the website of the Ministry of Social Affairs at: [http://eng.felagsmalaraduneyti.is/immigrants/first\\_steps/](http://eng.felagsmalaraduneyti.is/immigrants/first_steps/).

126. Paragraph 56 of Iceland's last periodic report mentioned the establishment and the activities of the Intercultural Centre. This is a non-governmental organization, and functions as a counselling and information centre for immigrants and on immigrants' issues. The centre offers free general and legal information and counselling to immigrants, and provides specialised information and expert opinions to public officials, parliamentarians, lawyers, the media, etc., on issues regarding immigration/migration and immigrants/migrants. All immigrants seeking counselling and advice are provided with free interpreting services if they so require. The Intercultural Centre runs an interpreting and translation service in 60 languages. The education department offers courses and information to immigrants on Icelandic society. Courses on different cultures, services available to immigrants, prejudice, racial discrimination, etc., are also available to the general public and to, for example, institutions, schools and businesses. The Centre also provides Icelandic language lessons to immigrants, with an emphasis on ordinary daily language, speech and communication. Work-related courses are also offered for parents, specific language groups, illiterates, etc. The Centre publishes the paper *Eins og fólk er flest* ("Like Most People"), which covers various issues, including practical information, four times a year.

127. The Intercultural Centre is a venue for all people regardless of their background, race or ethnic origin. On the first floor of the Centre there is a coffee shop where all sorts of events take place, such as cultural cuisine nights, tango lessons, pub-quizzes, etc. The purpose is to build a bridge between immigrants and local people so as to further mutual integration. The centre takes part in various projects aimed at improving immigrants' status, furthering multiculturalism, and ensuring equal treatment and opportunities for all. The Government has collaborated with the centre and supported some of its projects, for example under an agreement between the Ministry of Social Affairs and the Intercultural Centre dating from May 2007 supporting the centre's general and specialised counselling services for immigrants. These services, which include legal services and general advice on immigrants' issues, are designed to help people to participate in a multicultural society.

128. The Ministry of Social Affairs established an Immigration Development Fund in 2007. The purpose of the fund is to stimulate research and development projects in spheres relating to immigrants and their interests, with the aim of enabling immigrants to adapt to Icelandic society and enabling the community to accept them and recognise their needs. The Immigration Council allocates ISK 10 M each year from the fund towards projects and studies that are in accordance with special rules. Thirty-two applications were received by the fund this year, revealing a sincere wish to improve the position of immigrants in Iceland and the services available to them. Projects to which allocations have been made include development projects by the local authorities, vocational training programmes for immigrants, library services for immigrants and studies on the participation of immigrant children in sports.

129. By virtue of their close contact with local people and the services they provide, the local authorities and bodies under their control play a key role in involving immigrants in the local community. The local authorities in Iceland strive to give immigrants a warm welcome and many of them operate special reception programmes for this purpose. The Reykjavik City Welfare Division has commissioned its Social Service Centre with giving special attention to immigrants, and it has built up expertise in this field. The Union of Local Authorities has set up a task committee to examine all the aspects of the local authorities operations regarding services to immigrants, the aim being to equip them as well as possible to provide these services and to be aware of immigrants' needs. Local authorities in all parts of the country are also very interested in these issues, and some of them are working to expand their services to immigrants in a systematic way; more than half of them have been active in this direction, according to a survey taken by the Ministry of Social Affairs in 2006. That survey also revealed that more than half of the local authorities, including all the largest ones in the country, which are located in the metropolitan area, used the services of interpreters when communicating with immigrants. In addition, 13% of local authorities were involved in special collaborative projects with immigrants themselves, or their organisations, concerning their affairs, and about 40% made use of counselling provided by the Multicultural and Information Centre or the Intercultural Centre.

130. The Association of Local Authorities in the East of Iceland prepared guidelines on how local authorities can best accept immigrants in their own localities and develop their own policies and services for them. These guidelines were published in January 2007 in the report *Svona gerum við - Leiðir að fjölmenningslegu samfélagi á Austurlandi* ("This is How We Do It - Approaches towards a multicultural society in the East of Iceland"). Some local authorities have made it an urgent priority to draw up reception programmes for new arrivals in their areas, and have used the aforementioned report, amongst other sources, as a model for this purpose. In one of these areas, a plan is being drawn up to improve the reception of foreign immigrants, with particular emphasis on the social services provided. In another, work in this area is concentrated more on collaboration with trade unions and other parties. The Reykjanesbær Council is in the process of launching an ambitious project with a special emphasis on services for Polish immigrants with the involvement of the immigrants themselves in the development of these services. A Multicultural Centre (*Alþjóðastofa*) is in operation in the Northern Region, while the Intercultural Centre in Reykjavík provides a high level of services of a variety of types to immigrants. The Multicultural and Information Centre intends to produce models of working procedures and reception programmes for the local authorities to draw on, if they want to, as has been described above.

131. In 2007 Iceland participated in European Equal Opportunities Year, organised by the European Union. Its aim was to make the community more tolerant and broad-minded by the end of the year, based on the philosophy that strength lies in diversity and that Europe's most valuable resource lies in the variety of its people. Due to prejudice and stereotyped ideas, however, not everyone in Europe enjoys the dignity to which they are entitled. Many are deprived of opportunities on grounds of their race, origin, religion, attitudes, disability, gender, age and sexual orientation. Equal opportunities must be created for everyone if Europe is to flourish; at present many are denied real equality even though discrimination is prohibited by law; thus, an awakening of awareness is called for. To mark European Equal Opportunities Year, the Ministry of Social Affairs awarded grants from a special fund to support projects aimed at promoting a broad awakening of awareness in society of the phenomenon of discrimination on grounds of gender, age, race, handicaps, sexual orientation and religion.

132. Also to mark European Equal Opportunities Year, an experimental project was launched to examine three municipalities outside the metropolitan area which have a high proportion of immigrants of various backgrounds in their resident and working population. This project is under the administration of the Ministry of Social Affairs and other parties, and involves examining the attitudes of the immigrants towards the communities in which they live and the factors they value and regard as a basis for participation in, and acceptance by, the community. At the same time, attitudes of the indigenous population towards the immigrants will be examined. This survey is the first of its kind ever undertaken in Iceland, and should constitute an important foundation to ensure mutual understanding and prevent the growth of prejudice and discrimination.

133. As mentioned in paragraphs 20-24 and 62-69 of Iceland's fourteenth report (CERD/C/299/Add.4) and paragraphs 31-33 of Iceland's fifteenth periodic report (CERD/C/338/Add.10), various measures have been taken in Iceland, by both the Government and human rights organisations, to raise public awareness concerning human rights issues in Iceland. Information regarding human rights and issues relating to foreign nationals is accessible on the homepage of the Government Offices of Iceland. Iceland's reports on measures to give effect to the Convention and the concluding observations of the Committee on Iceland's reports are, as has been mentioned above, published on the homepage of the Ministry of Justice and Ecclesiastical Affairs.

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