

The Icelandic Human Rights Centre

**NOTES ON ICELAND'S COMBINED TWENTY FIRST TO
TWENTY THIRD PERIODIC REPORTS ON
IMPLEMENTATION OF THE INTERNATIONAL
CONVENTION ON THE ELIMINATION OF ALL FORMS OF
RACIAL DISCRIMINATION**

**Submitted by the Icelandic Human Rights Centre to CERD in advance of the Committee's
consideration of Iceland's twenty first to twenty third periodic report**

2019



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ICELANDIC HUMAN RIGHTS CENTRE

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INTRODUCTION

Recent years have seen a significant increase in foreign nationals moving to Iceland. The Icelandic population has changed from a largely homogeneous and mono-cultural one to a multicultural one in little more than a decade. At the end of the first quarter of 2019, there were 45,670 foreign national residents in the country, representing about 12.5% of the total population of 358,780, not counting those who have obtained Icelandic citizenship.

The Government's report provides an extensive overview of national legislative, judicial, administrative and other measures that are significant to the implementation of the Convention.

The Icelandic government is to be commended for ratifying (20 February 2019) the UN Optional Protocol of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Under an amendment to the Act on the Parliamentary Ombudsman, the Ombudsman is now the National Prevention Mechanism (NPM) under the Optional Protocol.

PART I. IMPLEMENTATION OF ARTICLES 1-7 OF THE CONVENTION

ARTICLE 1

There is no definition of racial discrimination in Icelandic legislation. The substantive provisions of Convention have not been incorporated into domestic law, apart from Article 4, partially.

ICEHR recommends that the Icelandic Government adopt CERD into domestic law, or at minimum, a definition of racial discrimination.

ARTICLE 2

ANTI-DISCRIMINATION LEGISLATION IN ICELAND

On October 1, 2018, a new legislation on discrimination entered into force, Act no. 86/2018, on equal treatment on the labour market and Act no. 85/2018, on equal treatment regardless of race or ethnic origin, implementing the two EU Directives, 2000/43/EC and 2000/78/EC. The Directorate of Equality was assigned the role of implementing the law. ICEHR fears that not enough finances or manpower were allotted to the Directorate for the purpose of implementing the legislation.

ICEHR recommends that the Government provide for enough resources to the Directorate of Equality to meet with their responsibilities under the new legislation.



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The Icelandic Constitution, Article 65, sets out the principle of equality before the law, including protection against ethnic or racial discrimination. The principle of equality is implemented through a handful of national acts of law such as the Act on Administrative Procedure, No. 37/1993, the General Penal Code, no. 19/1940, the Primary School Act, no. 66/1995, the Rights of Patients Act, no. 74/1997 and the Postal Service Act, no. 19/2002.

In addition, Iceland is party to several international instruments containing non-discrimination provisions, such as majority of the UN Conventions. CRPD has been ratified and, in 2016, the Icelandic Parliament (Alþingi) concluded on the Optional Protocol to CRPD to be ratified before the end of 2017. This has not been done. Also, Iceland has neither signed nor ratified the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Additional Protocol to the Convention on Cybercrime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems, has not been ratified. Protocol 12 to the ECHR has been signed but not ratified.

Iceland has neither signed the Convention relating to the Status of Stateless Persons of 1954 nor the Convention on the Reduction of Statelessness of 1961. ICEHR is not aware of any concrete efforts towards ratification of these instruments. However, the new Act on Foreigners no. 80/2016 includes stipulations to ensure that the Icelandic government meets its international obligations and to ensure compliance with the beforementioned conventions.

A new steering group on human rights, established by the government, has been mandated to consider the international obligations of Iceland as regards human rights, especially what international conventions Iceland should possibly ratify in near future. ICEHR is hopeful that the work of the steering group will be an incentive for the government to sign and/or ratify these international instruments.

ARTICLE 3

The issue of apartheid or segregation is not pertinent in Iceland.

ARTICLE 4

Hate speech can easily be found on Icelandic websites and chat rooms, mostly directed against asylum seekers, Muslims, immigrants and feminists. The Government has adopted various actions against hate speech but still more is needed. The following are ICEHR's recommendations on countering hate speech:

1. Article 65 of the Icelandic Constitution should be revised so as to include prohibition on discrimination on grounds of disability, gender identity, sexual orientation, gender expression, gender non-conformity etc.



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2. The General Penal Code should be amended so as to allow for prosecution for hate speech on grounds of public interest and democratic values.
3. Aggravated sentence; either implement a separate stipulation or a new paragraph to Article 70 of the General Penal Code, for an aggravated sentence in cases instigated by racism or prejudice.
4. The Media Act no. 38/2011 has been amended so as to penalise both hate speech as well as instigation to hatred. However, the scope of Article 27 of the law has been narrowed and does not encompass single hate speech programmes, only systematic incitement to hatred (hate propaganda). This should be revised so as to harmonise with the situation in Iceland, to provide means to combat hate speech in the most effective way possible. Also, stipulations on individuals' and editors' liability for publishing hate speech in the media should be clarified and strengthened.
5. An act encompassing media which do not fall under the scope of the Media Act, such as social media, web sites, Twitter, blogs, Facebook, etc. should be implemented. This might be done by broadening the scope of the Media Act. Such legislation should also be monitored by a supervisory body.
6. The government should implement a comprehensive policy on equality and anti-discrimination as well as action plans against prejudice and discrimination in Icelandic society.
7. Data collection, registration and research are necessary tools to establish the status of minority groups, the extent of discrimination in society and to systematically counteract prejudice which might lead to hate speech.
8. Education and awareness raising must be carried out among the general public as well as specialist groups such as the judiciary and government officials. In 2017, the police and prosecutors underwent an education programme on hate crimes. This is a good start, but this education must be conducted on a regular basis. Hate crimes and hate speech are taught as an optional course in the Police Studies programme at the University of Akureyri.
9. The media and Internet service providers should implement rules on the publication of material, which might be categorised as hate speech, and train journalists in covering minority groups and vulnerable groups as well as to counteract general misconceptions.



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10. Awareness raising campaigns on media literacy should be conducted, on the Internet, in schools and media. It might be of use for the preparation and construction of such campaigns to make use of the know-how of f.ex. Germany and the UK.

ARTICLE 5

Women of foreign origin

In 2018, 35% of women staying at the Women's Shelter in Reykjavik were immigrants. Immigrant women, victims of domestic violence, are a particularly vulnerable group. If a foreign woman who has been granted a residence permit on grounds of marriage or cohabitation leaves her partner within three years of obtaining her first residence permit, she no longer qualifies for a family reunification permit. As a result, women are reported to have endured abusive relationships in order to avoid being deported. According to the new Act on Foreigners, Article 70, paragraph 9 (b), if a foreigner, with a residence permit on grounds of marriage or cohabitation, is a victim of domestic violence, the validity of the residence permit may be prolonged even after divorce, if special circumstances apply. Also, according to Article 86, paragraph 3 (c), a third country national, who divorces an EEA citizen, may stay on in the country, provided they are not a financial burden to society. The position of women from countries within the EEA is easier than the position of women from a third country, they can stay on in the country regardless of the reasons for divorce, provided they sustain themselves financially.

ICEHR encourages the Government to amend these discrepancies, either initially granting women an independent residence permit, or to, upon divorce, allow for a new type of permit neither requiring the woman to have to verify her difficult position should she return to her home country as a divorced woman nor to have reported the violence to the police, or having to provide other verification.

ICEHR applauds the government for various measures taken to provide support to immigrant women in Iceland, among those allotting money to ICEHR and the Women's Shelter to carry out an information and empowerment programme for foreign women, especially those in a vulnerable position and at risk of isolation. Also, it is to be commended that Bjarkarhlíð, a multidisciplinary reception centre for victims of violence, is no longer a pilot project but an established entity. However, ICEHR believes that more needs to be done to protect and assist immigrant women and provide them with opportunities to learn the Icelandic language and to participate in society.

ICEHR encourages the Government to promote research into the status of immigrant women in Iceland and ensure continued measures for empowering immigrant women in Iceland, especially those in a vulnerable position and at risk of isolation.

Refugees and asylum seekers



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The Association of Local Authorities in Iceland and the Ministry for Social Affairs are now in a negotiation process on i.a. the State's financial contribution to coordinated and comprehensive services to be carried out by local authorities both to quota refugees as well as those being granted a refugee status upon an asylum application. The Directorate of Labour has undertaken the role of providing for Icelandic studies, education on society and labour market resources for all.

ICEHR recommends that the Government ensure coordinated services to all refugees and that enough manpower and finances be allotted to carry out all necessary measures to ensure integration and equal opportunities.

It should be noted that the Act on Foreigners still contains, in Article 40, a provision which excludes those foreigners who present a danger to national security from the protection against being returned to places where they would face the risk of serious human rights violations. It is the view of ICEHR, that this provision is in breach of the Iceland's human rights obligations under, *inter alia*, the ECHR, as the European Court of Human Rights ruled in the *Saadi case* that a person at a real risk of torture in the receiving state cannot be returned, no matter how "undesirable or dangerous" he or she is. *ICEHR recommends that this stipulation be amended in order to meet with the ECHR ruling.*

Trafficking in human beings

Iceland is a recognized destination country for sex-trafficking and trafficking for labour. There are many known instances involving women being prostituted, in brothels, strip clubs, and even by their husbands or partners. There are also stories of people arriving in the country to work, in strip clubs, restaurants, construction etc., having their passports and return tickets taken from them and being forced to work off their debt before being able to be free of their commitment to whoever brought them here.

The Government have introduced their intentions regarding measures to combat human trafficking, but no action plan has been put in place. The intention is to establish a reception and service centre for victims of human trafficking and Bjarkarhlíð, the service centre for adult victims of violence has been mentioned as a possible candidate. Bjarkarhlíð is a combined effort of NGOs, the Metropolitan Police, Reykjavík City as well as the Ministries of Justice and Social affairs. There is expert knowledge on human trafficking among these parties but many of the NGOs are small and meagre finances limit their capacity. Therefore, more finances and manpower are needed if Bjarkarhlíð is to become a reception and coordination centre for victims of human trafficking and on actions against trafficking.

ICEHR recommends that the Government adopt a comprehensive action plan on human trafficking, including prevention, protection, prosecution and partnership



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measures and open a reception and coordination centre for victims of trafficking. Also, that enough finances be allotted to this measure as well as other actions under the action plan.

Immigrants in workplace and society

In recent years important steps have been taken by the Icelandic Government to improve the status of foreigners and people of immigrant origin in Iceland. Notably, the Parliament (Althingi) passed a new Act on Foreigners, no. 80/2016, aimed at more humane and efficient processing of asylum claims and residence permit applications in general. However, the Icelandic Human Rights Centre (ICEHR) has come across many obstacles regarding the implementation and interpretation of the Act and is therefore of the opinion that the Act has not fully meet its aim.

ICEHR encourages the Government to ensure that the aim of the Act on Foreigners no. 80/2016, is fully met with.

The Centre commends the Government for adopting, in 2016, a parliamentary resolution on an action plan on immigrant issues, focusing on five pillars, society, the family, education, the labour market and refugees. Despite these laudable measures, ICEHR is of the opinion that a comprehensive and specific government policy on immigrant's issues is needed, stating the ideology, role and responsibility of the state and municipalities as well as various institutions, providing a basis for policy making, coordination, procedural rules and services rendered by government and municipal bodies. Also, ICEHR believes that human rights issues, including immigrant's affairs, should be included in all government policy making and action plans.

ICEHR recommends for the Government to implement a comprehensive government policy on immigrant issues as well as to include them in all policy making and action plans.

Originally, the influx of foreign nationals was precipitated by an economic boom fuelled by the expansion of the banking sector and a resulting property bubble. As consequence of the economic collapse of 2008, unemployment in Iceland soared. This resulted in foreigners making up a disproportionate percentage of the unemployed and in 2018, with an overall national unemployment rate of 2.6%, foreign nationals accounted for almost 32% of the unemployed. In May 2019 the percentage had risen to 36%. This overrepresentation in unemployment among foreign nationals is a matter of great concern. Although the Government has taken various measures to counter this development, more affirmative action is needed.

ICEHR encourages the Government to put more effort and resources into countering the high number of unemployment among immigrants.

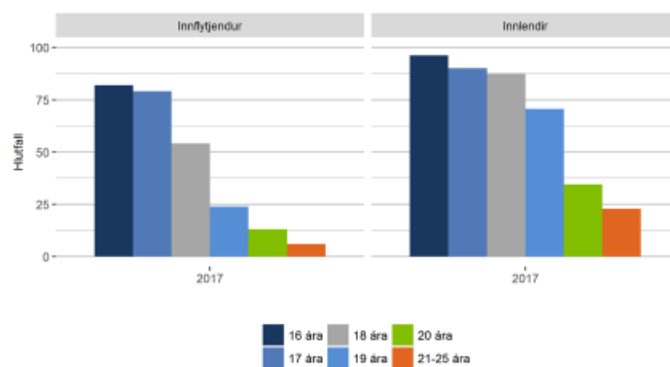


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Although the situation of students of an immigrant background has improved in later years, not least through efforts made by the Ministry of Education, resulting in more students registering for grammar school, vocational training and other continuing education, the dropout rate among these students is higher than among those of Icelandic origin. The following graph from National Statistics shows the dropout rate for immigrants on the left and the dropout rate for Icelandic students on the right. More recent data is not available.

Láréttur ójöfnuður

Skólasókn í framhaldsskóla eftir bakgrunni 2017



26.6.2019

Hagstofa Íslands

ICEHR recommends for the Government to instigate research into the causes of the high dropout rate as well as continue with their counter measures against it.

Incidents of refusal of access to public spaces and harassment are still reported, despite Article 180 of the Penal Code No. 19/1940, which provides that denying a person service, or access to any public area or place intended for general public use, on account of that person's colour, race or ethnic origin, is punishable by fines or imprisonment for up to six years. There has yet to be a single criminal conviction under this Article.

ICEHR recommends that business owners and staff in the hospitality industry receive anti-discrimination training and be made aware that denial of services on the grounds of race or origin is a criminal offence.

Access to justice



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For the most part, immigrants in Iceland hold low income jobs and therefore it is overly burdensome for most of them to seek legal redress. The state provides free legal aid before the courts for low income individuals, and, albeit that the law was amended to include important personal issues and higher income, the threshold is still very low so many people fall short of the wage limit.

ICEHR encourages the Government to change the rules on free legal aid so that more individuals with low income individuals may seek legal redress before the courts.

ARTICLE 7

The Multicultural and Information Centre (MCI) holds an important role in ensuring that immigrants in Iceland know their rights and can actively participate in Icelandic society. MCI aims to facilitate communications between individuals of different backgrounds, and to enhance the services provided for foreigners residing in Iceland.

ICEHR provides, through a service agreement with the Ministry of Social Affairs, free legal advice and counselling for immigrants. If necessary, interpretation is also provided free of charge.

In the Spring session, the Parliament adopted a parliamentary resolution on the establishment of a Counselling Centre for Immigrants, which is to be commended.

Albeit that the new legislation on discrimination entered into force on October 1, 2018, little action has been taken to raise awareness on the legislation and to inform those who are mostly at risk of being discriminated against, such as people of foreign origin, on their rights according to the legislation and remedies available to them.

ICEHR recommends that the Government undertake a comprehensive nationwide campaign introducing the new legislation on discrimination with special focus on reaching vulnerable groups.

The government has published their intention to establish a National Human Rights Institutions (NHRI), and, for that purpose, to present a bill before the Parliament (Alþingi) in the fall session of 2019. ICEHR welcomes this development and points out that it has effectively carried out majority of the functions of a NHRI since 1994 and its structure and activities comply with the UN Paris Principles. The Centre has informed the Government that it is prepared to formally take on the role of a NHRI in the event of the formal establishment of such an institution in Iceland.

CONCLUSION



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In general, there have been many positive developments both in Icelandic legislation and procedures. However, limited research concerning the situation of persons of immigrant origin and issues regarding discrimination and racism has been undertaken. Also, the high unemployment rate among immigrants and overrepresentation of women of foreign origin in the Women's Shelter is cause for concern. The dropout rate of young people of immigrant origin from continuing education is higher than average and services for quota refugees on one hand and those granted refugee status following an asylum claim, have not been fully coordinated. Also, further measures need to be taken to counter hate speech in Iceland.

There is need of a national policy on immigrant issues as well as a national action plan against human trafficking.