



MANNRÉTTINDASKRIFSTOFA ÍSLANDS
ICELANDIC HUMAN RIGHTS CENTRE

Follow-up on ECRI's Third Report on Iceland

I. FOLLOW-UP TO ECRI'S THIRD REPORT ON ICELAND

International legal instruments

In its third report on Iceland, ECRI recommended that Iceland ratify Protocol No. 12 to the European Convention on Human Rights (ECHR) and the European Social Charter (Revised). It also recommended that Iceland take steps to ratify the Framework Convention for the Protection of National Minorities, the European Charter for Regional or Minority Languages, the UNESCO Convention against Discrimination in Education, the European Convention on the Legal Status of Migrant Workers, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Regrettably, Iceland has not yet ratified any of these Conventions and legal instruments.

Iceland has also not ratified the Convention on Cybercrime and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

Icelandic authorities have not yet incorporated other human rights instruments than the ECHR into domestic legislation but the plan is to incorporate CRC in the near future.

No provisions specifically prohibiting racial discrimination have been added to the Icelandic Constitution. However, the Constitution is up for re-evaluation and revision in the upcoming Constitutional Assembly (February-June 2011).

Constitutional provisions and other basic provisions

Eligibility and voting rights for non-citizens

Information on the extent to which the persons so entitled have exercised their voting right in practice at municipal elections is not available and few measures have been taken to raise awareness among non-citizens of these rights.

Criminal law provisions

The criminal law provisions in force against racism and racial discrimination, and notably those that prohibit racial discrimination (Section 180 of the Criminal Code) and incitement to racial hatred (Section 233a of the Criminal Code) have not been applied since ECRI's last report. There do not seem to have been made any comprehensive efforts to better research the reasons behind the apparent unwillingness of victims to report cases, including the role that the actors of the criminal justice system may play in this respect, nor have there been any awareness raising campaigns among the general public and minority groups of the legislation in force against racism and racial discrimination. There is still lack of comprehensive civil and administrative provisions against discrimination, since neither have the EC Directives on discrimination (2000/78/EC and 2000/43/EC) been implemented nor have any other proposals on legislation against discrimination been presented.

ECRI also recommended that the Icelandic authorities consider introducing further criminal law provisions in the areas covered by its mandate. No amendments to this effect have yet been made to the Penal Code.

ECRI recommended that the Icelandic authorities take steps to improve the implementation of the criminal law provisions in force against racism and racial discrimination and to this end, that they research the reasons behind the apparent lack of complaints, and take measures to address them, including measures to raise the awareness among potential victims of racism and racial discrimination of their rights and the legislation in force. Such research and awareness raising has not yet taken place.

As far as we know, the Icelandic authorities have not yet followed ECRI's recommendation to strengthen their efforts to ensure that all those involved in the criminal justice system are equipped with thorough knowledge of the provisions in force against racism and racial discrimination and fully aware of the need to actively and thoroughly counter all manifestations of these phenomena.

Icelandic authorities have not yet introduced a criminal law provision that expressly considers the racist motivation of an offence as a specific aggravating circumstance.

Civil and administrative law provisions

Although scattered civil and administrative provisions covering discrimination in certain fields exist, there is still no comprehensive civil and administrative body of antidiscrimination legislation in Iceland covering all fields of life.

The two Directives of the EU on equal treatment (Directive 2000/43/EC and Directive 2000/78/EC) have not yet been transposed into Icelandic law, even if the Icelandic authorities have expressed their intention to do so.

Specialised bodies and other institutions

Iceland has no yet established a specialised body to combat racism and racial discrimination, even if the Icelandic authorities have expressed their intention to do so.

The Icelandic Human Rights Centre has, since 2008, received a yearly contribution from the Ministry of Justice (now Ministry of the Interior), although there is no mention of the Centre in the State Budget (law on the State Budget). The Centre also has a service agreement with the Ministry of Foreign affairs, both for specific projects and for daily operations. The funds do however not guarantee the Centre's independence and effectiveness, funds have also to be sought elsewhere.

Human rights organisations can also receive funding from the Ministry of the Interior, on the basis of project proposals submitted to this Ministry

Education and awareness-raising

Much more effort is needed.

A recent survey/study made by The Icelandic Red Cross shows that hostility towards immigrants is on the rise compared to earlier studies conducted in 1997 and 2000 show (visir.is 2005). Furthermore then the results of a joined study made by The Ministry of Social Affairs and Social Security and Human Right office made in April 2009 show that that the majority of the Icelandic nation 57% (100%) share the opinion that people are being harassed or discriminated against because of their race or nationality and furthermore then 26% have been witnesses to such activities.

(The Ministry of Social Affairs and Social Security 2009)

Reception and status of non citizens

The authorities need to take into consideration the situation of residents of the Baltic countries of Russian origin who are not citizens of these countries (they hold aliens' passports and do not enjoy the same rights as EEA citizens do).

Citizenship

As it generally takes months to process applications on Icelandic Citizenship, the applicants suffer a long period of worry and anxiousness regarding what will become of them if not approved. Recent amendments to the Act on Citizenship have changed the criteria for approval. People have been rejected due to of minor fines (for speeding for example) or for owing taxes or being in financial difficulties. Immigrants also have to pass a language test to measure their command of the Icelandic language.

Asylum seekers

Since ECRI's last report, there has been an increase in approvals of asylum claims. In 2007, 1 individual was granted asylum in Iceland, in 2008 they were 4 and 8 in 2009 (numbers for 2010 are not available yet). In 2007 humanitarian permits were 7, 8 in 2008 and only 1 in 2009.

Although new amendments have been made to the Act on Foreigners improving the situation of asylum seekers considerably, there is still no independent and impartial judicial mechanism empowered to consider the merits of the asylum application. Free legal aid is still only available to asylum seekers upon appeal of the denial of an asylum application to the Ministry of the Interior.

The provisions contained in Section 45 of the Act on Foreigners, which exclude those foreigners who present a danger to national security from protection against being returned to places where they would be at risk of serious human rights violations and Section 46, which provides that asylum may be refused on grounds of important national interests are still in place, but, to the best of our knowledge, they have not been applied since ECRI's third report.

Unaccompanied minors

An amendment has been made to Section 47 of the Act on Foreigners stating that when an unaccompanied minor is granted asylum, the Child Welfare Authorities shall immediately decide on a Custodian for the child or a placement in a suitable environment. The Government Action Plan against Trafficking also holds provisions on minors who are possible victims of trafficking.

Access to education

Since the onset of the financial crisis, municipalities have been cutting down funding to the teaching of native/mother tongues. The school headmaster in one community said it was necessary to quit all native/mother tongue teaching because either you have to teach all children their mother tongue or none.

Access to other services

Complicated rules, a system which people do not understand and does not work for all, is something many immigrants complain about.

Immigrants on rehabilitation benefits/and or invalidity pension have little means, most of them only receive minimal benefits due to their short stay in the country.

Immigrants who do not have a family network to rely on are in a worse position than those who do.

Some do not seek aid from social services. Seeking such aid from their local municipalities is the last resort as it can negatively affect the renewal of their applications for a residence permit and/or Icelandic citizenship. There are exemption clauses regarding social aid in the Act on Foreigners, but most immigrants are unfamiliar with them and are afraid to risk accepting financial aid from social services.

An increased number of immigrants now seek the assistance of charity organizations that distribute food, clothes and even money.

Complaints have been made to the Multicultural and Information Centre on the attitude of the managers of charity organisations that distribute food as many claim that their attitude to foreigners is quite hostile. (Fjölskylduhjálpin and Mæðrastyrksnefnd).

Employment

A comparison of unemployment figures of foreign citizens with those of native Icelanders shows that, until the present economic crisis, foreign citizens on the Unemployment Roster were relatively fewer than Icelanders. Unfortunately, the development these past two years has been reversed, the percentage has been increasing and at the end of November 2010, 16% of those listed on the unemployment registry were foreign citizens. When looking at long-term unemployment, the figures are even more alarming.

Immigrants worry about losing their jobs on account of various issues like for instance:

Work- and residence permits

Extension of such permits is not guaranteed if circumstances change, i.e. loss of employment.

Residence permits

In order to obtain a residence permit, an applicant must submit proof of sufficient financial sustenance. It is not possible to apply for a permanent residence permit unless having had residence permit on the same premises (grounds) for four years prior to the application. If the premises on which the permits are based change, for instance if a spousal (family reunification) permit is needed, then a new four year period starts, prolonging the time requirements for an application for a permanent residence permit. There are examples of immigrants who have worked here far longer than 4 years and are still not eligible for unemployment benefits due to changes in their residence status during the period.

Unemployment benefits

Non-EEA citizens who do not have a permanent residence permit are not eligible for unemployment benefits.

Of a registered total of industrial accidents in 2008, approximately 25% happened to foreign citizens even though they only count as 9 % of the total work force.

Immigrants claim that attitudes have changed; many sense more hostility towards them. On the other hand neighbours, friends, relatives and employers are showing more concern than before.

There have been cases of immigrants being told in job interviews that they would have been hired had they been of Icelandic origin. People do not want to complain because that would damage their possibilities of future employment.

One woman said that it seemed that the people in charge did not seem to have any knowledge on Human Rights.

Vulnerable groups

Immigrant women

Recently, the Center for Gender Equality issued a pamphlet intended for immigrant women in abusive relationships, informing them of their rights. Little else has been done to inform immigrant women of their rights (useful information can however be found on the Multicultural and Information Centre's website). More has been done to provide them with opportunities to learn the Icelandic language, though many are hard to reach. NGO's have made efforts to reach immigrant women and to further their participation in society, although more must certainly be done.

The situation of immigrant women who are victims of domestic violence has not improved in later years. Last year over 36 % of all women seeking counselling and assistance from the Women's Shelter in Reykjavík and 64 % of all women staying at the shelter were immigrant women. However, an amendment has been made to the Act on Foreigners to the effect that if immigrants, who have not yet obtained a permanent residence permit, end their marriage or cohabitation due to violence on behalf of their partners, their permit may be extended if special circumstances apply. However, both violence and special circumstances have to be established in order for the permit to be extended.

Some indication may be derived from statistics that immigrant women are less likely to be granted full custody of their children, than Icelandic women.

Not all District Magistrates provide interpretation services when people with little or no knowledge of Icelandic or English, seek divorce and sign legal documents like Custodial agreements.

Muslims

Muslims are still struggling to get permission to build a Mosque and the situation is even more complicated than before because there are now two different Muslim sects that both want to build a mosque. The City of Reykjavík had decided to give permission for only one. Discussion on the issue is ongoing. There seems to be limited understanding to the fact that, due to religious differences, these sects can no more share a Mosque than the Catholic and the Greek Orthodox congregations can share a church as a place of worship.

Antisemitism

Media

We cannot supply the Commission with any research or data on the subject. If a foreigner is suspected to have committed a crime, his nationality is often mentioned in the media, although it bears no relevance to the case.

Some believe the situation to be worse in many aspects than when the third report was issued, since human rights seem to have become a secondary issue after the onset of the financial crisis in Iceland.

Conduct of law enforcement officials

As far as we know the Icelandic authorities have done little to strengthen their efforts to provide law enforcement officials with good quality training in human rights and non-discrimination, and to raise their sensitivity to cultural diversity in dealing with people of different backgrounds. The position and role of the police contact person has not been widely made known.

An independent mechanism, separate from police structures, for investigating allegations of police misconduct, including racist or racially discriminatory behaviour has not been established.

Monitoring the situation

Statistics Iceland has opened a new database which makes it much easier to access data on immigrants in Iceland.

More research on the immigrant situation within respective systems needs to be carried out. For example, so far it has not been possible to know how many immigrants are unemployed due to all data on individuals being categorized by citizenship and not by their country of origin.

II. SPECIFIC ISSUES

The situation of immigrants

FINANCIAL CRISIS

Access to information from banks and institutions is sometimes lacking.

Research on how the financial crisis affects immigrants, and human rights issues, is very important so that an effective policy can be formed and to better organise relevant measures.

Moving from Iceland

It may prove difficult for many immigrants to move return to their home country and migrate to another, as the economic and political situation in their native country may be worse than here, more unemployment, no housing, their relatives have also moved away and other factors. The cost of leaving Iceland is also considerable and in some instances the immigrants cannot even afford the fare.

Those having to live solely on unemployment benefits are having difficulties to make ends meet and therefore have not the required funds to meet the cost of visiting their GP, dental care and similar health related services.

In some instances, when individuals have not entered the Health Care System, they can therefore not transfer their rights to their native country (or the new country of residence).

FOREIGN PRISONERS AND FAMILIES

An ever increasing number of prisoners of foreign nationalities call for new and more specialized measures in the prison environment and legislation, especially regarding those who have been given long sentences

SHELTER

There is dire need for a Shelter for people who have been victims of human trafficking and prostitution.

WORK PERMIT FOR SPOUSES

It is almost impossible for the spouses of non-EEA nationals to be granted a work permit. This in turn leads to difficulties in supporting the family financially. The law allows the children to work

until the age of 18, when they reach legal adulthood, but the parent, with a residential spouse-permit, cannot.

Icelandic language test for Icelandic citizenship applicants.

The purpose of the legislation is to integrate foreigners.

The individuals who are most likely to fail the test are immigrants from South Asia. Information on the gender of those who have failed the test is yet to be published. There seems to be a case of double or triple discrimination i.e.; origin, gender and little or no education.

Icelandic courses, Icelandic citizenship and illiteracy.

In 2007, the Act on Icelandic Citizenship was i.a. amended to the effect that all applicants for Icelandic citizenship must now pass an Icelandic exam or be granted an exception. Notwithstanding the fact that the exams are relatively easy, it has become evident since this stipulation entered into force that a specific group of applicants, namely those whose mother tongue has little or no relation to German language structure, are having considerably more difficulties with passing the exam than other applicants. This especially applies to people of South East Asian origin. Illiterate people are also having a hard time with passing the exam.

Exceptions are only made in exceptional circumstances, such as if a person has a University degree in Icelandic or is psychically unable to show up for the exam. Also people belonging to specific language groups should not have to depend upon exceptions, NGO's and others working in this field see this as a clear example of discrimination.

Immigrants with little or no formal education have to be taken into special consideration. Courses for illiterate people are few, nearly always in the Reykjavík area and not held on a regular basis.

It has been reported to the Multicultural and Information Centre, that an illiterate woman has twice failed the Icelandic test for citizenship. Two valid doctor certificates stating that due to legitimate reasons she should not take part in the exam for the third time have been presented to the Ministry of the Interior. They were not accepted.

In the regulation on how the Icelandic language exam should be conducted and on what grounds exceptions are to be made, it is clearly stated; *that a specialist can confirm that an applicant cannot pass an exam because of physical or mental reasons*. It is also stated that special assistance will not be provided for those who cannot read or write the Latin alphabet if it is possible/likely that they could acquire those skills with traditional learning to read and write. This clearly does not apply to this instance as the woman is illiterate in her own native language and could therefore not possibly acquire the required Icelandic skills within the traditional environment of secondary education.

As mentioned before, this may easily be seen as an example of multiple discrimination. There are many women from South East Asia in Iceland and it is necessary to develop new teaching methods aimed at the heart of this group, that is the illiterate or semi-illiterate who are unable to acquire reading and language skills in a manner that allows them to maintain their full human dignity. There are hardly any courses available that meet the needs of this very vulnerable group. Teaching methods and different approaches must be developed before demands are made by the authorities for these women to pass exams which may be regarded as discriminating. It may be gathered from existing data on these exams, that origin and native language play a role in excluding people from being granted citizenship.

The children of these women are especially vulnerable as they enter the Icelandic educational system fluent in neither language, and studies clearly show their disadvantage from an early start. The newest PISA study shows that immigrant children in Iceland have significant lower scores than the

average. This is especially the case when the mother has little education and comes from a different cultural background. See news report: <http://www.ruv.is/frett/pisa-lakari-arangur-innflytjenda>