



MANNRÉTTINDASKRIFSTOFA ÍSLANDS
ICELANDIC HUMAN RIGHTS CENTRE

NOTES FOR THE LIST OF ISSUES CONCERNING ICELAND
AND THE IMPLEMENTATION OF THE CONVENTION AGAINST TORTURE

Submitted to the Committee against Torture

Prepared by the Icelandic Human Rights Centre

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The following information was compiled by the Icelandic Human Rights Centre from various sources. We will also be submitting a comprehensive alternative report.

Article 2 [legislation against torture]

1. The Convention against Torture has not been implemented into national law and torture is still not considered as a specific crime in the Penal Code.

Article 3 [prohibition of deportation, refoulement or extradition]

2. The authorities demonstrate extreme reluctance to grant protection to asylum seekers. During the period of 2005-2007 Iceland has deported asylum seekers to Russia, Kazakhstan, Georgia, Afghanistan, Liberia, Romania, Albania, Bulgaria, Iran, Ukraine, Lithuania, Sudan, Croatia and Israel. If a person falls under the Dublin Regulation he or she will without exception be returned to the country responsible for examining the application under the Regulation. The Icelandic Human Rights Centre is of the opinion that humanitarian considerations should play a more significant role in the Icelandic asylum procedure even when the Dublin regulation applies. The Centre is familiar with the case of a seven month pregnant woman being returned under the regulation and in 2005 an asylum seeker from Romania was returned to the United Kingdom despite the fact that he was gravely ill; suicidal and suffering from severe post traumatic stress disorder.

3. The Ministry of Justice recently confirmed the Directorate of Immigration's decision to deport an asylum seeker who claims to be a victim of torture. Despite finding his claims of being imprisoned in his home country, where ill-treatment by prison authorities is documented, credible, the authorities rejected his application for asylum. Since the asylum seeker came to Iceland his lung has collapsed twice and he has had invasive surgery. Still authorities deem him healthy and fit for deportation. In recent years only one person has been granted the status of refugee under the 1951 Convention and a merely a handful have been granted permits to stay on humanitarian grounds.

4. A third party observer such as the Icelandic Red Cross is present when the deportation order is presented to an asylum seeker but no third party observer is present when the deportations are carried out.



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5. Section 45 of the Icelandic Act on Foreigners contains 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

Article 4 [torture a punishable offence]

6. Although the Government finds the provisions in the General Penal Code (Sections 217, 218, 131, 132, 134 and 135, 225 and 226) sufficient to prevent ill-treatment, the crime 'torture' carries more gravity than other crimes. Therefore, it is not adequate to prohibit torture and other inhuman or degrading treatment or punishment in the Constitution (Article 68) and Article 3 of the European Convention on Human Rights if there is no criminal provision in the General Penal Code prohibiting torture.

Article 5 [jurisdiction, universal jurisdiction]

7. In 2003, when Mr. Luo Gan, a high-ranking Chinese Communist Party official, was on a two-day visit in Iceland, a criminal lawsuit was filed against him charging him with crimes of torture, genocide and crimes against humanity. Plaintiffs in the lawsuit included Falun Gong practitioners from numerous countries represented by an Icelandic Supreme Court attorney. The attorney stated that "Iceland has a legal and moral duty to prosecute forcefully and bring to justice persons that are guilty of systematic violations of international human rights, including violations of the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the United Nations Convention on the Prevention and Punishment of the Crime of Genocide." The Icelandic State Prosecutor did not take a stand on Luo Gan being guilty or not, but said that Luo Gan had been on a visit planned by the Icelandic Ministry for Foreign Affairs and therefore enjoyed immunity in accordance with the Vienna Convention and the Convention on Special Missions from 1969 (which Iceland has not signed).

Article 6 [custody, enquiry, notification]

8. In early August 2007, a 16 year old girl was seized with half a kilo of cocaine at Keflavik airport. She was arrested and interrogated without the appropriate child protection authorities being involved; she was detained at the male prison Litla-Hraun on remand.

9. In June 2002, followers of the Falun Gong religious movement complained that the Government had detained them unlawfully for several hours before admitting them into the country. Environmental activists protesting at the Kárahnjúkar dam project have alleged that undue force and unlawful arrest were used by the authorities there in 2005 and 2006. This summer, environmental activists who have been protesting in Iceland claim that one female activist was refused the right to appeal her prison sentence, was kept in solitary confinement in Hegningarhúsið, a male prison, and that fifteen activists have had their passports seized by the Police.

Article 10 [education etc]

10. A new law regarding Icelandic peacekeeping and participation in international peacekeeping, No. 73 of 28 March 2007 was adopted in 2007. According to this new law, peacekeepers shall bear in mind Iceland's obligations under international law while performing their duties, but there is no requirement of training of peacekeepers in human rights and humanitarian law. Currently peacekeepers do not receive any regular training on these issues.



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11. A prohibition of torture is not expressly mentioned in the rules of procedure for policemen or prison wardens. Even if the authorities consider this prohibition so self-evident as not to need mention (State party report Para. 103) the Icelandic Human Rights Centre is of the view that safeguards for persons arrested or detained would clearly be reinforced if the prohibition of torture were expressly mentioned in the rules of procedure.

12. It should be noted that concerns have been raised that asylum requests are not always properly handled by border guards. The Committee on the Elimination of Racial Discrimination has encouraged Iceland to intensify 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.

Article 11 [preventive measures]

13. The Icelandic Human Rights Centre regrets that a system for the inspection of detention and psychiatric facilities by an independent authority was not implemented with the new Application of Punishments Act, No. 49/2005. Currently, the Parliamentary Ombudsman has the liberty to take on this task but the Office is under-resourced and does not have the capacity to carry out inspections in regularly, frequently and fruitfully. The Ombudsman has himself expressed the view that there is a need to create a specific monitoring mechanism.

14. Prison authorities have been criticized for arbitrary use of solitary confinement and the use of solitary confinement for pre-trial detainees.

Year	Solitary confinement
2001 (Jan-Nov)	78 of 86 persons placed in custody spent on average four weeks in solitary confinement
2002	94 of 108 persons placed in custody spent on average 14 days in solitary confinement
2003	55 of 69 persons placed in custody spent on average 11 days in solitary confinement
2004	86 persons placed in custody spent on average 10.7 days in solitary confinement
2005	77 persons placed in custody spent on average 8.2 days in solitary confinement. The daily average number of remand prisoners in isolation was 1.7, while the total number of days spent there was 630 out of a total of 5,884 days in custody. All 11 reported cases of minors placed in custody involved some use of isolation.
2006	110 persons placed in custody spent on average 11.2 days in solitary confinement. In nine cases prisoners spent more than one month in isolation. Most of the minors who were held in custody (fewer than 20 in all) spent some time in isolation.



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15. The police force is considering the use of EMD (Electro Muscular Distortion) guns, so called stun guns or tasers. The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials state that whenever the lawful use of force is unavoidable, law enforcement officials must "exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved" (Article 5(a))(6). According to a report made by Amnesty International in March 2006,¹ tasers have caused more than 150 deaths in the United States since June 2001. It should be kept in mind that tasers are not non-lethal weapons but belong to the group less-lethal weapons and although most tasers are equipped with a microchip that shows when it was fired, tasers may not leave any identifiable traces, so allegations of abuse may be hard to prove.

16. The Icelandic Human Rights Centre is concerned that legislation and information on constraining measures applied in psychiatric hospitals and institutions for people with disabilities is very limited.

17. In March 2003, the Parliament Ombudsman criticized the main prison Litla-Hraun officials for being careless and asked the prison authority to take steps to ensure medical treatment for inmates in solitary confinement). The Ombudsman had reacted on a complaint filed by an inmate in 2002 whose request to see a psychiatrist was ignored.² In 2005, the Council of Europe Commissioner for Human Rights expressed concern that prisoners did not have access to specialized mental health care services and the Commissioner urged the authorities to arrange for treatment outside the prison system if necessary to meet the individual care requirements.³ In 2006, prison authorities hired a second part-time psychiatrist at the prison to ensure that psychiatric personnel were present at least 50 percent of the time but prisoners needing psychological and psychiatric services may still have to wait up to thirteen days for an appointment with a psychiatrist. Limited psychological treatment has come to the fore in the wake of the recent suicide of a 22 year old inmate at Litla-Hraun prison. On this issue the prisoners association has noted that although the Application of Punishments Act, No. 49/2005 stipulates that an individual treatment programme be at the drawn up at the beginning of the term of imprisonment, and then revised regularly, this is currently not the case. Treatment programmes are drawn up but they are apparently not revised according to changes in a prisoner's personal circumstances as stipulated in the law.

18. Regarding the Committee's recommendation that doctors who are in contact with persons subjected to any form of arrest, detention or imprisonment, be trained in the field of recognizing the sequelae of torture and the rehabilitation of victims of torture or maltreatment, the authorities, in their third periodic report, responded that the Ministry of Health and Social Service had sent letters to senior physicians of the institutions responsible for health services in the prisons with directions to comply with this recommendation. There is currently no information how this recommendation has been followed by the senior physicians. This applies equally to doctors, psychologists and social workers charged with the mental well being of asylum seekers.

¹ USA – Amnesty International's continuing concerns about taser use, available at <http://web.amnesty.org/library/index/engamr510302006>.

² Case No. 3518/2002.

³ Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to the Republic of Iceland 4-6 July 2005.



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19. The prison system is still using a substandard jail, Hegningarhúsið in the city centre of Reykjavik, which was built in 1874, where the 16 individual cells lack toilets and sinks.

20. In 2006, an increase in arrests caused some overcrowding at the detention facility in Reykjavik. At one point, the facility held between five and ten more detainees than it was designed for. Authorities were forced to temporarily move some detainees to the main prison Litla-Hraun and release others sooner than originally planned. During the year, an average of 117.7 prisoners occupied facilities designed for 137 prisoners. In 2001, the Government had budgeted funds for a new remand prison just outside of Reykjavik. In 2003, the Government initiated the bidding process for a new detention facility for completion in 2005. In December 2004, the project remained in the planning stages and it was clear that the deadline would not be met. In December 2006, Alþingi enacted the Budget for 2007, which included funds for the expansion, modernization and upgrade of two smaller prisons in Kviabryggja and Akureyri, but not for the main prison Litla-Hraun. After the renovation of Kviabryggja, which started this spring and will be finished in October this year, the prison will be able to host eight more inmates than before. The renovation of the prison in Akureyri started in April this year and will finish in January 2008 and after the renovation the prison will be able to host two more inmates.

21. Remand prisoners are generally incarcerated with convicted prisoners.

22. In the rare cases where juveniles have been incarcerated (they usually get probation, suspended sentences or treatment programmes) they have been held with adults since there is no separate facility for juveniles. In 2007 a boy in his sixteenth year started serving a two and a half year sentence at Litla-Hraun.

23. In its most recent recommendations the Committee asked that Iceland include information on the investigation of cases of suicide in prison, along with guidelines. In its third periodic report, the State party only provided information regarding courses on suicide and pamphlets that have been distributed to prison staff but provided no information regarding investigations of the two prisoners who committed suicide in 2004-2005 (during the time period 2001-2003 no prisoner committed suicide).⁴

24. In 2005 the media alleged that CIA affiliated planes had landed in Iceland at least 67 times since 2001. There were calls for an official investigation relating to possible complicity in so-called renditions but the public prosecutor did not take up the issue. The Minister for Foreign Affairs responded to the second report by Dick Marty, in June 2007, that the Icelandic government had fully cooperated with the Council of Europe in answering questions regarding the alleged landings and reaffirmed that the Ministry for Foreign Affairs was not aware of any such landings in Iceland or any such planes in Icelandic air space.

25. There are no specific provisions safeguarding the rights of unaccompanied minors.

26. It has come to our attention, that there have been incidents where asylum seekers have not been treated in accordance with international agreements, e.g. in one case an asylum seeker was detained for four days without access to a lawyer or authorities to challenge his detention.

⁴ Nordic Correctional Statistics 2001-2005, available at http://www.fangelsi.is/media/stofnunin/Nordic_Statistics_2001-2005_English_version.pdf.



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Article 12 [prompt investigation] and Article 13 [right to remedy]

27. In recent months, several cases of grave abuse in governmental institutions for youth in the past have surfaced (Breiðavík 1950-1980). Initially, the Government seemed reluctant to address the allegations systematically but the Ministry for Social Affairs has now appointed an investigative committee to look into these allegations. Also, cases of recent abuse have surfaced in relation to Byrgið (a rehabilitation centre for substance abusers) and the School for the Deaf.

28. Another case of alleged abuse surfaced in the media recently when a woman arrested in Selfoss for driving under the influence refused to provide a urine sample. The male police officers allegedly pulled down her pants in a prison cell and had a tube inserted into her urine tract to extract the sample without her consent. The woman tried to press charges of sexual assault but the Public Prosecutor did not see fit to investigate the allegations.

29. In light the abovementioned allegations of ill-treatment the Icelandic Human Rights Centre would like to ask that the authorities provide statistics on the number of complaints of ill-treatment made against police officers and staff of psychiatric institutions and the number of criminal/disciplinary proceedings which were instituted as a result; and the criminal/disciplinary sanctions imposed following such complaints.

Article 15 [evidence extracted under torture]

29. The legislation concerning evidence to be adduced in judicial proceedings has still not been brought in line with the Convention so as to explicitly exclude any evidence made as a result of torture.