

# **ECRI REPORT ON ICELAND**

**(fourth monitoring cycle)**

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# TABLE OF CONTENTS

<b>FOREWORD</b> .....	<b>5</b>
<b>SUMMARY</b> .....	<b>7</b>
<b>FINDINGS AND RECOMMENDATIONS</b> .....	<b>9</b>
<b>I. EXISTENCE AND APPLICATION OF LEGAL PROVISIONS</b> .....	<b>9</b>
INTERNATIONAL LEGAL INSTRUMENTS .....	9
CONSTITUTIONAL AND OTHER FUNDAMENTAL PROVISIONS.....	10
- <i>ELIGIBILITY AND VOTING RIGHTS FOR NON-CITIZENS</i> .....	10
- <i>CITIZENSHIP</i> .....	11
CRIMINAL LAW PROVISIONS .....	11
CIVIL AND ADMINISTRATIVE LAW PROVISIONS .....	12
TRAINING FOR LAW-ENFORCEMENT OFFICIALS, PROSECUTORS AND JUDGES .....	12
SPECIALISED BODIES AND OTHER INSTITUTIONS .....	13
<b>II. DISCRIMINATION IN VARIOUS FIELDS</b> .....	<b>14</b>
EDUCATION .....	14
EMPLOYMENT, SOCIAL SERVICES AND OTHER SERVICES.....	16
<b>III. RACIST VIOLENCE</b> .....	<b>17</b>
<b>IV. RACISM IN PUBLIC DISCOURSE</b> .....	<b>17</b>
CLIMATE OF OPINION AND POLITICAL DISCOURSE .....	17
MEDIA, INCLUDING THE INTERNET, AND PUBLICATIONS .....	18
<b>V. VULNERABLE/TARGET GROUPS</b> .....	<b>19</b>
IMMIGRANTS .....	19
- <i>IMMIGRANT WOMEN</i> .....	22
MUSLIMS .....	23
JEWS .....	24
“QUOTA” REFUGEES.....	24
ASYLUM SEEKERS AND REFUGEES.....	25
<b>VI. MONITORING RACISM AND RACIAL DISCRIMINATION</b> .....	<b>29</b>
<b>VII. CONDUCT OF LAW ENFORCEMENT OFFICIALS</b> .....	<b>30</b>
<b>VIII. EDUCATION AND AWARENESS RAISING</b> .....	<b>30</b>
<b>INTERIM FOLLOW-UP RECOMMENDATIONS</b> .....	<b>33</b>
<b>BIBLIOGRAPHY</b> .....	<b>35</b>



## Foreword

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work is taking place in 5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, and those of the third round at the end of the year 2007. Work on the fourth round reports started in January 2008.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The fourth round country-by-country reports focus on implementation and evaluation. They examine the extent to which ECRI's main recommendations from previous reports have been followed and include an evaluation of policies adopted and measures taken. These reports also contain an analysis of new developments in the country in question.

Priority implementation is requested for a number of specific recommendations chosen from those made in the new report of the fourth round. No later than two years following the publication of this report, ECRI will implement a process of interim follow-up concerning these specific recommendations.

**The following report was drawn up by ECRI under its own and full responsibility. It covers the situation up to 23 June 2011 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.**



## SUMMARY

**Since the publication of ECRI's third report on Iceland on 30 June 2006, progress has been made in a number of fields covered by that report.**

A general anti-discrimination bill is being prepared, which will prohibit, among other grounds, discrimination based on "race".

In 2007, the Government adopted its first ever Policy on the Integration of Immigrants and in 2008 developed an Action Plan on Immigrant Issues. A bill on the integration of immigrants is currently being drafted.

New legislation in the field of education provides for reception plans for pupils whose mother tongue is not Icelandic and entitlement to instruction in Icelandic as a second language.

Amendments to the Act on Foreigners have removed the minimum age requirement for residence permits for spouses in family reunification cases. Certain safeguards have been introduced so that immigrant women are not forced to stay in abusive or violent relationships for fear of losing their right to stay in Iceland. Temporary work permits are now issued in the name of the foreign worker.

Efforts have been made to improve the asylum system. Asylum seekers are now entitled to an interview with immigration officers following the police interview. Free legal aid is granted by law at first instance and in practice at the appeal stage. Special safeguards for unaccompanied minors have been introduced.

**ECRI welcomes these positive developments in Iceland. However, despite the progress achieved, some issues continue to give rise to concern.**

Iceland has not established a specialised body to combat racism and discrimination based on "race", colour, language, religion, nationality or national or ethnic origin. The Multicultural and Information Centre, which is now responsible for providing assistance and services to immigrants, is located in the extreme north-west of the country; this means that most immigrants no longer have easy access to specialised support services.

Changes to the Icelandic Nationality Act mean that the repeated commission of petty offences for which a fine is prescribed can definitively exclude a person from obtaining Icelandic citizenship. While the conditions for citizenship now also include passing Icelandic language tests, funding for language classes for foreigners has been cut.

The media frequently disclose the citizenship or ethnic origin of persons suspected of criminal activity although it bears no relevance to the case. One television channel and some Internet sites engage in hate speech against Muslims. The Muslim communities in Iceland still do not have permission to build mosques in which to worship, despite one application pending for more than 12 years.

Pupils of immigrant background have a significantly higher drop out rate from secondary school than Icelandic pupils.

Asylum seekers still have no possibility to appeal to an independent and impartial judicial mechanism empowered to consider the merits of the case. Not all children in the asylum procedure have access to compulsory school education.

There is still no mechanism for the investigation of allegations of police misconduct which is independent of the police and prosecution authorities.

**In this report, ECRI requests that the Icelandic authorities take further action in a number of areas; in this context, it makes a series of recommendations, including the following.**

The authorities should complete the work on an anti-discrimination bill so that the law can be adopted as soon as possible\*. They should also establish a specialised body to combat racism and discrimination on grounds of “race”, colour, language, religion, nationality or national or ethnic origin which could form part of a body with wider objectives in the field of human rights generally. A criminal law provision should be introduced that expressly considers the racist motivation of an offence as a specific aggravating circumstance\*.

The Icelandic Nationality Act should be amended so that the repeated commission of minor offences for which fines are prescribed does not automatically exclude a person from the possibility of acquiring citizenship.

The authorities should complete the drafting of a bill on the integration of immigrants and pursue their goal of organising a large-scale campaign addressed to society at large to raise awareness about racial prejudice. They should return to their previous practice of providing language classes for non-Icelandic speakers at minimal costs for everyone or, preferably, free of charge.

Efforts to reduce the drop out rate of pupils of immigrant background should be pursued. These pupils should be encouraged to continue educational or vocational studies at secondary level.

The Muslim communities should be granted land and permission to build mosques in order for them to exercise their right to manifest their religion in worship\*. Steps should be taken to monitor the Internet and prevent it from being used to disseminate racist or xenophobic comments and material. Media professionals should be invited to adopt provisions in their codes of self-regulation concerning the manner of reporting on the citizenship or ethnicity of suspects in criminal cases so as to avoid breeding a climate of hostility towards members of vulnerable groups.

Asylum seekers should be able to appeal against asylum decisions before an independent and impartial judicial mechanism empowered to consider the merits of the case. Border police should be given special training in conducting a good quality asylum interview and all children in the asylum procedure should have access to education.

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\* The recommendation in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.



## FINDINGS AND RECOMMENDATIONS

### I. Existence and Application of Legal Provisions

#### International legal instruments

1. In its third report, ECRI strongly recommended that the Icelandic authorities ratify Protocol No. 12 to the European Convention on Human Rights (ECHR) without delay. It reiterated its recommendation that the Icelandic authorities ratify the European Social Charter (Revised), the UNESCO Convention against Discrimination in Education, the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. ECRI also urged the Icelandic authorities to start work with a view to ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and recommended that they ratify the Additional Protocol to the Convention on Cybercrime without delay.
2. ECRI notes that none of the above-mentioned instruments has been ratified. The authorities have informed ECRI that they are looking into the possibility of ratifying the European Social Charter (Revised), which was signed by Iceland on 4 November 1998, and the Framework Convention for the Protection of National Minorities, signed on 1 February 1995. As for the Additional Protocol to the Convention on Cybercrime, signed on 9 October 2003, a bill is being drafted and is due to be submitted to Parliament in October 2011.
3. Ratification of Protocol No. 12 to the ECHR, which provides for a general prohibition of discrimination in the enjoyment of any right set forth by law and which was signed by Iceland on 4 November 2000, would fill the gaps left by the constitutional provision on equality (see Constitutional and other fundamental provisions below).
4. ECRI regularly stresses the importance of Article E of the revised European Social Charter, enshrining the principle of non-discrimination in the enjoyment of the rights guaranteed thereunder. Moreover, the European Social Charter can also provide guidance in addressing issues related to the protection of and assistance to migrant workers and their families. Since Iceland has a growing immigrant population, ECRI considers that ratification of this instrument, as well as of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, would signal a firm commitment towards the integration of this section of the population.
5. Ratification of the UNESCO Convention against Discrimination in Education would oblige Iceland to provide for the religious and moral education of children in conformity with their own convictions (see Discrimination in Various Fields - Education). Becoming party to the Additional Protocol to the Convention on Cybercrime would assist Iceland to overcome some of the Internet problems identified below (see Racism in Public Discourse - Media, including the Internet, and publications).
6. ECRI reiterates its recommendation that Iceland ratifies Protocol No. 12 to the ECHR, the European Social Charter (Revised), the UNESCO Convention against Discrimination in Education, the Framework Convention for the Protection of National Minorities and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and completes ratification of the Additional Protocol to the Convention on Cybercrime.

## Constitutional and other fundamental provisions

7. In its third report, ECRI encouraged the Icelandic authorities to strengthen the protection provided by the Icelandic Constitution against racism and racial discrimination. It drew the attention of the Icelandic authorities to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, notably as concerns the need for constitutions to enshrine “the principle of equal treatment, the commitment of the State to promote equality as well as the right of individuals to be free from discrimination on grounds such as race, colour, language, religion, nationality or national or ethnic origin”.
  8. The Icelandic Constitution has not been amended. The authorities reiterated their conviction that Article 65 – which states that “Everyone shall be equal before the law and enjoy human rights irrespective of sex, religion, opinion, national origin, race, colour, property, birth or other status” - provides adequate protection against racism<sup>1</sup> and racial discrimination<sup>2</sup>. ECRI considers that the article fails to provide for the right of individuals not to be “discriminated against by any public authority on any ground” such as those mentioned above, equivalent to that of Article 1(2) of Protocol No. 12 to the ECHR (a provision that supplements the protection provided by Article 1(1) of Protocol No. 12 which, similarly to Article 65 of the Icelandic Constitution, safeguards “the enjoyment of any right set forth by law without discrimination”).
  9. ECRI notes that a Constitutional Council of 25 persons was directly elected by the public in November 2010 and formally nominated by the Parliament to undertake a review of the Icelandic Constitution. The Council has three to four months, starting on 6 April 2011, to prepare a bill of amendments. Full and open participation of the public is envisaged throughout the process. ECRI has been informed that reinforcing human rights is not one of the eight priority areas, but hopes that the Icelandic authorities will take this rare opportunity to strengthen the protection provided by the Constitution against discrimination on the grounds within ECRI’s mandate. It again draws attention to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination which provides guidance.
  10. ECRI recommends again that the authorities strengthen the protection provided by the Icelandic Constitution against racism and racial discrimination.
- *Eligibility and voting rights for non-citizens*
11. In its third report, ECRI encouraged the Icelandic authorities in their efforts to promote political participation of non-citizens and in particular to raise awareness among this part of the Icelandic population of their eligibility and voting rights in municipal elections.
  12. ECRI has been informed that guides in eight languages have been published to raise awareness among foreigners of their rights in general, including political rights. Prior to the 2010 municipal elections, information brochures were sent by post to every eligible person in the country. 40.4% of eligible non-citizens cast their vote.

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<sup>1</sup> According to General Policy Recommendation No. 7, racism is the belief that a ground such as “race”, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons or the notion of superiority of a person or a group of persons.

<sup>2</sup> According to General Policy Recommendation No. 7, racial discrimination is any differential treatment based on a ground such as “race”, colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

- *Citizenship*

13. In 2007 the Icelandic Nationality Act was amended. Article 9 contains two restrictions which raise concerns for ECRI. Firstly, citizenship can now be refused if the applicant has been fined or imprisoned or is suspected of or charged with a criminal offence. Exemptions are provided following intervals of one to 14 years depending on the amount of the fine or the length of the prison sentence, provided that the offences are not repeated. NGOs have expressed concern that the repeated commission of a petty offence for which a fine is prescribed, such as speeding, can have the drastic consequence of definitively excluding a person from obtaining Icelandic citizenship. In ECRI's view, this is unduly harsh and not in conformity with the principle of proportionality.
14. ECRI notes that a bill has been drafted amending the Act and raising the level of the fine, in order not to cover minor offences. The bill was due to be submitted to Parliament in autumn 2011.
15. ECRI recommends that the authorities pursue their efforts to amend the Icelandic Nationality Act so that the repeated commission of minor offences for which fines are prescribed does not automatically exclude a person from the possibility of acquiring citizenship.
16. Secondly, applicants must now pass an Icelandic language test or be granted an exemption in order to obtain citizenship. The test is generally agreed to be relatively easy (level A2: elementary, under the Common European Framework of Reference for Languages) and according to the authorities about 90% of applicants pass. NGOs have noticed that specific groups of applicants, namely those from South East Asia, many of whom are either illiterate (this is not a ground for an exemption) or have little or no formal education, have particular difficulties meeting the language requirements and have a higher failure rate. ECRI encourages the authorities to ensure that literacy classes and courses for acquiring the necessary knowledge of the Icelandic language are widely available and accessible (see also section below on Immigrants).
17. ECRI further notes that, according to Article 6 of the Icelandic Nationality Act, Parliament may grant Icelandic citizenship "by legislation". Thus, where an application does not meet the conditions for citizenship set out in Article 9, the person concerned can refer his/her case to Parliament. After examination on a case by case basis, the relevant committee may propose a bill to be adopted by Parliament granting citizenship. Around 80 such applications are reviewed annually. ECRI was informed that this method of granting citizenship by statute has been used in cases where a person has failed to reach the level of Icelandic required despite efforts made to learn the language as well as in cases where people have committed very minor offences. ECRI notes that while this system serves as a last resort or final appeal, it may also be considered to create uncertainty and inequality.

### **Criminal law provisions**

18. In its third report, ECRI recommended that the Icelandic authorities take steps to improve the application of the criminal law provisions in force against racism and racial discrimination. It recommended in particular 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.

19. The authorities have informed ECRI that no charges have been brought invoking Section 180 on prohibiting racial discrimination or Section 233a on incitement to racial hatred since 2003. ECRI's third report noted that this situation was at variance with reported incidents of racial discrimination. Since then, however, civil society organisations have also not reported receiving complaints from victims of racist incidents in recent years. ECRI is pleased to note these positive signs. It points out, nevertheless, that there is no body in Iceland to which victims could turn to make complaints or seek assistance, other than the police, which could account to some extent for the apparent lack of reported racist incidents (see also Specialised bodies and other institutions).
20. In its third report, ECRI strongly recommended that the Icelandic authorities introduce a criminal law provision that expressly considers the racist motivation of an offence as a specific aggravating circumstance and that, more generally, they keep the criminal law provisions in force against racism and racial discrimination under review and fine-tune them as necessary.
21. ECRI has been informed that legislation is being prepared to transpose the EU Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law. ECRI encourages the authorities to opt for the higher standard of expressly including a provision in the law that racist motivation for an offence constitutes an aggravating circumstance rather than providing that such motivation may be taken into account by the judge in the determination of the penalties.
22. ECRI reiterates its recommendation that the authorities introduce a criminal law provision that expressly considers the racist motivation of an offence as a specific aggravating circumstance.

#### **Civil and administrative law provisions**

23. In its third report, ECRI urged the Icelandic authorities to adopt a body of civil and administrative anti-discrimination provisions that would cover racial discrimination across all fields of life and provide victims with effective means of redress, taking into account its General Policy Recommendation No. 7.
24. ECRI has been informed that the Ministry of Welfare is working on a general anti-discrimination bill which will cover the five grounds of discrimination ("race", gender, disability, age, sexual orientation) and which will incorporate the Racial Equality Directive (Council Directive 2000/43/EC) and the Directive establishing a general framework for equal treatment in employment and occupation (Council Directive 2000/78/EC). The bill is due to be submitted to Parliament at the beginning of 2012. ECRI welcomes this development and encourages the authorities to complete the work as quickly as possible.
25. ECRI strongly encourages the authorities to complete the work on an anti-discrimination bill, taking account of its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, so that the law can be adopted as soon as possible.

#### **Training for law enforcement officials, prosecutors and judges**

26. In its third report, ECRI recommended that the Icelandic authorities strengthen their efforts to ensure that all those involved in the criminal justice system, from lawyers to the police, prosecuting authorities and the courts, are equipped with thorough knowledge of the provisions in force against racism and racial discrimination and fully aware of the need to counter actively and thoroughly all manifestations of these phenomena. ECRI recommended that the Icelandic authorities strengthen their efforts to provide law enforcement officials with good

quality training in human rights and non-discrimination and that they strengthen provision of specific training to raise their sensitivity to cultural diversity in dealing with people of different backgrounds.

27. ECRI has been informed that there is little specific training given to those involved in the criminal justice system on the legal provisions in force against racism and racial discrimination. Basic training for police at the Icelandic Police College includes courses on human rights and addresses questions of racism and racial discrimination as well as cultural diversity. Border police receive training on issues related to dealing with foreigners.
28. ECRI points out that the lack of sufficient relevant training for serving police, prosecutors, judges and lawyers and knowledge of how to identify racist motivation could account for the non-application of the above-mentioned criminal law provisions. It considers that the fact that this type of crime is very rare in Iceland (see section on Racist Violence) is not a justification for devoting little attention to it in the training of actors in the criminal justice system.
29. ECRI recommends again that the authorities strengthen the initial and in-service training provided to police, prosecutors, judges and lawyers on issues related to racism and racial discrimination, the criminal law provisions in force to combat these phenomena and on how to recognise the racist motivation of an offence.

### **Specialised bodies and other institutions**

30. In its third report, ECRI strongly recommended that the Icelandic authorities establish a specialised body to combat racism and racial discrimination at national level, duly taking into account the guidance provided by ECRI in its General Policy Recommendations No. 2 and No. 7 concerning the status, role and functions that should be attributed to these bodies.
31. ECRI notes that, although this issue is under discussion at ministerial level, Iceland has not established a specialised body to combat racism and racial discrimination and the authorities have indicated that it is unlikely that an equality body will be set up under the draft general anti-discrimination law mentioned above.
32. Given the almost total absence of cases concerning racism and racial discrimination, the need for such a body could be questioned. For example, the Ombudsman's Office received one complaint in 2008 which concerned the negative attitude of the immigration authorities towards a Thai woman regarding her visa application and has not received any other complaints alleging discrimination based on the grounds covered by ECRI's mandate since then. ECRI recalls that the Ombudsman functions as a system of Parliamentary control over State institutions and has no competence in the private sphere.
33. ECRI is convinced of the concrete contribution that specialised bodies can make to strengthening the effectiveness of anti-discrimination measures. This need not be limited only to discrimination based on the issues within ECRI's mandate, but could also cover discrimination on other grounds or form part of a body with wider objectives in the field of human rights generally. Once again, ECRI refers to its General Policy Recommendations No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level and No. 7 on national legislation to combat racism and racial discrimination, which provide guidance on the functions and responsibilities of such bodies.

34. ECRI again strongly recommends that the authorities establish a specialised body to combat racism and racial discrimination. This could form part of a body with wider objectives in the field of human rights generally.
35. In its third report, ECRI encouraged the Icelandic authorities to increase their support for the work of the intercultural centres, including by ensuring, as appropriate, that the human and financial resources available to these centres match the needs of an increasing immigrant population. ECRI also encouraged the Icelandic authorities to consult these centres thoroughly in the elaboration and implementation of policies concerning immigrants and to make the most of these centres' knowledge of the problems faced by immigrant communities in Iceland.
36. ECRI notes that the Intercultural Centre, mentioned in its third report, closed down in 2010. The Multicultural and Information Centre, which is part of the Ministry of Welfare, was established in 2001 and is now the body providing assistance and services to immigrants. It is located in Isafjörður, in the extreme north-west of Iceland, but is supposed to provide services for the whole country. The authorities have justified this choice of location by explaining that there is a high proportion of immigrants in rural areas (in some places up to 20% of the population is of foreign origin). However, ECRI notes that the actual numbers are small. The vast majority of immigrants live in the Reykjavik area. While the Multicultural and Information Centre offers assistance through the telephone in Icelandic, English, Polish, Serbian/Croatian, Thai, Spanish, Lithuanian and Russian and has a well-resourced website providing information in the same eight languages, these cannot replace direct face-to-face contacts. ECRI is concerned that this development means that most immigrants no longer have easy access to specialised support services.
37. ECRI recommends that the authorities establish a centre, similar to the Multicultural and Information Centre, in Reykjavik so that immigrants living in this area can have facilitated access to specialist assistance and support.
38. In its third report, ECRI strongly recommended that the Icelandic authorities ensure that organisations active in the field of promoting and protecting human rights, including combating racism and racial discrimination, in Iceland receive adequate public funds for their work and that such funds are made available to them in a manner that guarantees their independence and effectiveness.
39. ECRI notes that some NGOs appear to receive adequate support and funding from the State. In addition, NGOs can apply for grants for specific projects. ECRI stresses the importance of providing funding for civil society organisations active in the field of combating racism and racial discrimination.

## **II. Discrimination in Various Fields**

### **Education**

40. In June 2008 a series of laws was adopted in the field of education: the Preschool Act, the Compulsory School Act and the Upper Secondary School Act. In March 2010 the Adult Education Act was passed. Education is compulsory from age six to 16.
41. In its third report, ECRI recommended that the Icelandic authorities improve the opportunities for non-Icelandic mother tongue pupils to learn Icelandic as a second language in schools at all levels, and particularly at secondary level. In parallel with efforts in this direction, ECRI encouraged the Icelandic authorities to improve availability of teaching of pupils' mother tongues other than Icelandic.

42. Both the Compulsory School Act (Article 16) and the Upper Secondary School Act (Article 35) provide for reception plans for pupils whose mother tongue is not Icelandic and entitlement to instruction in Icelandic as a second language. In addition, Regulation No. 654/2009, apart from regulating Icelandic as a second language as a separate course of studies, also provides for meeting the needs of pupils whose native tongue is not Icelandic, such as through interpretation, translation and other support. While ECRI commends the new provisions, it has received information that textbooks are still not available on Icelandic as a second language at secondary school level.
43. ECRI recommends the authorities to ensure that textbooks on Icelandic as a second language are available to all pupils at secondary school level who require them. Training in teaching Icelandic as a second language should be given at university level as well as to teachers already in service.
44. As for mother tongue teaching, the Upper Secondary School Act provides for the opportunity for pupils who have a mother tongue other than Icelandic to maintain their native language as an optional subject through distance learning or otherwise. Thus, while mother tongue teaching is not directly provided, it is at least facilitated.
45. In its third report, ECRI encouraged the Icelandic authorities in their efforts to address the situation of disadvantage of secondary school students of immigrant background, including their disproportionately high drop out rates. ECRI recommended that the Icelandic authorities develop monitoring and research which will enable them to identify challenges facing pupils of immigrant background in education and to assess the effectiveness of measures taken to meet these challenges.
46. The authorities have informed ECRI that in 2007 a project was launched to improve the prospects of pupils of immigrant background and to counter the high drop out rates. This included the production in eight languages of the guide "Upper Secondary Education in Iceland" which provides information about all the upper secondary schools in the country and the opportunities they offer for studies. A small but significant improvement has resulted. According to statistics provided by the Ministry of Education, 4% of Icelanders aged 16 or over do not enrol for secondary school. For foreigners, the figure is now 20%, which is down from 28% previously. However, the gap is still too large and more needs to be done to encourage immigrant pupils to stay in school and obtain educational or vocational qualifications.
47. ECRI strongly recommends the authorities to pursue their efforts to reduce the drop out rate of pupils of immigrant background and encourage them to continue educational or vocational studies at secondary level.
48. In its third report, ECRI reiterated its recommendation that the Icelandic authorities ensure that children who do not wish to attend classes in "Christianity, ethics and religious studies" are provided with alternative classes and ensure that all children are given genuine opportunities to learn about different religions and faiths. ECRI stressed the need for any initiatives taken to this end to be reflected in the selection and training of teachers as well as in teaching materials.
49. Article 2 of the 2008 Compulsory School Act states that compulsory school practice and methods shall be characterised by "the Christian heritage of Icelandic culture". ECRI notes that the subject "Christianity, ethics and religious studies" is still taught as part of the compulsory curriculum in Iceland. Parents who do not wish their children to attend can apply for an exemption, but no alternatives are provided.

50. In addition, ECRI notes that Christian-related events, such as church visits or religious excursions (for example, to prepare pupils for confirmation) are occasionally organised during school time. Pupils are not obliged to participate but reportedly feel stigmatised if they do not. This has led to some debate recently in Iceland about separating the Church from the State<sup>3</sup>, at least in the area of education.
51. ECRI considers that education is an important tool for combating racism and intolerance by promoting diversity. Children should have the possibility of studying different religions and faiths, in particular those which are practiced in the country by the various immigrant populations. However, where religious education is focused on the State religion, ECRI considers that pupils who do not wish to attend these classes should be provided with properly regulated alternatives so that they do not feel shamed or excluded.
52. ECRI encourages the authorities to ensure that religious education provided in schools recognises and respects the religious diversity of Icelandic society. They should also consider establishing State regulated alternatives for pupils who do not attend classes in religion in order for them not to suffer feelings of shame or exclusion.

### **Employment, social services and other services**

53. Regarding employment, the financial crisis which hit Iceland in 2008 severely affected the labour market situation. The unemployment rate increased from 3% in 2008 to 8% in 2011. This disproportionately affects immigrants who make up around 8% of the total population but 17% of the unemployed.
54. In its third report, ECRI recommended that the Icelandic authorities grant work permits directly to employees and not to the employers. It encouraged them to strengthen their efforts to ensure that clear provision of information is available to foreign workers on their rights.
55. In 2008, amendments were made to the 2002 Act on Foreigners as well as the 2002 Foreign Nationals' Right to Work Act which changed the system of work permits and made it more difficult for non-European Economic Area (EEA) nationals to apply for work in Iceland. Temporary residence permits are granted in accordance with the purpose of the stay, one of which is employment. This is divided into three categories: permits for athletes, permits for those with specialist skills and permits granted in connection with labour shortages. Employment of immigrants has mostly been connected with labour shortages in lower skilled work. As unemployment has risen and there is currently no shortage of labour, work permits under this category are now rarely issued. The amendments clearly aim to reduce the influx of unskilled labour in favour of skilled labour. ECRI understands that these measures are a response to market needs and not an attempt to stop immigrants coming to Iceland. It nevertheless encourages the authorities to take steps to off-set any possible suggestion of xenophobia by reinforcing a welcoming attitude to those immigrants who are already in the country.
56. ECRI notes that where temporary work permits are granted they are now issued in the name of the foreign worker but tied to a specific employer. The permit must be issued before the foreigner enters Iceland. The first permit is always temporary and is usually granted for a renewable period of one year.

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<sup>3</sup> The Constitution specifies that the "Evangelical Lutheran Church is a national church and as such it is protected and supported by the State". It is now called the National Church of Iceland.



57. ECRI also notes that the Department of Labour opened a new electronic system for job searching in November 2010. Currently information is only available in Icelandic, although the authorities are working on producing an English version. It was reported that foreigners frequently experience difficulties filling in the on-line forms. Incorrect registration results in lack of access to available jobs since the computer matches jobs with job seekers. The Department of Labour is aware of these pitfalls and ECRI is pleased to note that it has organised meetings (including in Polish) for foreigners to explain the new system and leaflets have been produced in several languages. Since ECRI considers that all people entitled to work in Iceland should have equal opportunities in access to the labour market, it encourages the authorities to provide assistance to any person who needs help accessing the new system.
58. In its third report, ECRI recommended that the Icelandic authorities take steps to investigate any practices in use in the entertainment industry of refusing entry to persons of immigrant background to certain establishments. It also encouraged them to strengthen their efforts to provide officials and providers of services who deal on a daily basis with the needs and requests of immigrants with the necessary skills to operate professionally in a multicultural society.
59. ECRI notes that the Human Rights Office of Reykjavik Municipality has organised several training courses for employees of bars and nightclubs with a special emphasis on non-discrimination in the provision of services.

### **III. Racist Violence**

60. Although ECRI is pleased to note that there appear to be no particular racist-violence problems in Iceland, there are rare and isolated incidents. For example, in 2010 a father and son of Cuban origin suffered racist abuse that caused them to leave Iceland. Their home had been attacked, windows and the front door broken, and death threats had been addressed to the son on account of his relationship with an Icelandic girl. Two people were arrested in connection with the case. ECRI also notes with interest the reaction of the public to these events: over a thousand people took part in a march in Reykjavik in support of the father and son and in protest against the racist violence.

### **IV. Racism in Public Discourse**

#### **Climate of opinion and political discourse**

61. According to a study conducted in 2010<sup>4</sup>, approximately 30% of Icelanders wanted to limit the number of foreigners moving to Iceland. Out of these, two thirds wanted to limit the immigration of all foreigners, but one third wanted to limit the influx of people with a different complexion, religion and culture from those of most Icelanders. The conclusion of the study was that racial prejudice is clearly present in Iceland.
62. ECRI notes that the Government's Action Plan on Immigrant Issues (see Vulnerable/Target Groups – Immigrants) includes the objective of combating all forms of prejudice, whether based on "origin, colour or other features". It provides for the organisation of a campaign against prejudice and antagonism towards immigrants in collaboration with NGOs, the media, and immigrants themselves. The authorities have informed ECRI that over the last four years there have been awareness-raising activities in the field of anti-discrimination, including through radio advertisements, posters, brochures and postcards. Moreover, research, surveys and training for students and in the work place

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<sup>4</sup> Social Science Research Institute (University of Iceland).

have been conducted. However, the above-mentioned 2010 study has demonstrated the need for additional awareness-raising action to promote a more positive climate of opinion towards diversity in Icelandic society.

63. ECRI encourages the authorities to continue their action to raise awareness about racial prejudice and to promote diversity.
64. As for political discourse, the only party known to have hostile immigration policies and which had been outspoken about limiting immigration to the country, the Liberal Party, lost all seats in Parliament in the 2009 elections. It got only 2.2% of the votes.

### **Media, including the Internet, and publications**

65. In its third report, ECRI encouraged the Icelandic authorities to impress on the media, without encroaching on their editorial independence, the need to ensure that reporting does not contribute to creating an atmosphere of hostility and rejection towards members of any minority groups, including immigrant, Muslim or Jewish communities. ECRI recommended that the Icelandic authorities engage in a debate with the media and members of other relevant civil society groups on how this could best be achieved.
66. ECRI has been informed by many different sources that the media in Iceland frequently disclose the citizenship or ethnic origin of persons suspected of criminal activity although it bears no relevance to the case. This has had the effect of stigmatising whole communities (in particular Lithuanians and Poles). ECRI is concerned that this kind of reporting increases prejudice and leads the general public to regard all members of these population groups as criminals. The authorities could also address this issue in the awareness-raising campaign on prejudice mentioned above (see ECRI's recommendation in § 63).
67. Although the Ministry of Welfare has engaged in a debate with the media by organising a conference in 2008 to discuss the above issue, it seems to have made little difference. ECRI notes, for instance, that the media code of ethics does not contain a provision against mentioning the citizenship or ethnicity of suspects in criminal cases so as to avoid perpetuating prejudices and spreading biased information.
68. ECRI recommends that the authorities invite media professionals to adopt provisions in their codes of self-regulation concerning the manner of reporting on the citizenship or ethnicity of suspects in criminal cases so as to avoid breeding a climate of hostility towards members of vulnerable groups.
69. ECRI has received information about a private television channel called Omega which engages in hate speech against Muslims and promotes the stereotype of Muslims as terrorists. It has also received reports about Internet sites which diffuse anti-Islam messages as well as several websites set up for the sole purpose of disseminating racist jokes which are popular with teenagers and young people. The authorities stated that they have not taken action because no complaint has been received by the police.
70. ECRI recalls that freedom of expression, as protected under Article 10 of the ECHR, is not an unconditional right. It can be restricted in certain circumstances, including for the protection of the reputation or rights of others. Furthermore, the materials transmitted via Internet may meet the criteria of advocating, promoting or inciting discrimination based on race, colour, descent or national or ethnic origin as defined in the Additional Protocol to the Convention on Cybercrime (which Iceland is in the process of ratifying – see § 2 and ECRI's recommendation in § 6).

71. ECRI recommends that the authorities take steps to monitor the Internet and prevent it from being used to disseminate racist or xenophobic comments and material. It draws their attention to its General Policy Recommendation No. 6 on combating the dissemination of racist, xenophobic and antisemitic material via the Internet.
72. ECRI is pleased to note that in April 2011 the Public Media Services Act, dealing with all media serving the public in Iceland, that is both press and broadcasting as well as electronic media, was adopted by Parliament. The act contains a provision on the prohibition against incitement to hatred “on the basis of race, gender, sexual orientation, religious belief, nationality, opinion, or cultural, economic or social standing in the community”. In addition, it sets up an independent regulatory body, the Media Committee, to monitor compliance with the act and receive complaints as well as the competence to investigate matters on its own initiative. ECRI particularly welcomes the creation of a media monitoring body so that the problems highlighted above can be addressed.

## **V. Vulnerable/Target Groups**

### **Immigrants**

73. In its third report, ECRI encouraged the Icelandic authorities in their efforts to develop long-term overall strategies to favour mutual integration of the immigrant and non-immigrant populations of Iceland. It recommended that they devote all the necessary resources to the Immigration Council to enable it to carry out its tasks effectively. It recommended that these strategies include a clear focus on discrimination and measures targeted at the majority population to raise its awareness of this phenomenon and the need to combat it.
74. ECRI notes that prior to 2008, immigration to Iceland was at its highest level. In January 2007, the Government adopted its first ever Policy on the Integration of Immigrants. It aims at ensuring that immigrants receive all necessary information on their rights and that realistic opportunities are created for them to learn Icelandic which is emphasised as the key to integration in society. Moreover, the policy stresses the role of public institutions in encouraging the participation of immigrants in society and in activities that can lead to faster integration.
75. A concrete example of an initiative taken by the Municipality of Reykjavik was the introduction in 2007 of a leisure card for all children aged six to 18 supplying up to 25 000 ISK to pay for sport, culture and social activities. Information about the card was sent to every household in the city. ECRI notes that although the leisure card is not aimed specifically at immigrants, it represents an important step to facilitate their involvement in various activities in the community along with the majority population by removing the cost barrier.
76. In May 2008, an Action Plan on Immigrant Issues was adopted by a Parliamentary Resolution. It aims at improving the reception of foreign persons immigrating to Iceland and making it easier for them to become active participants in Icelandic society. The plan includes a total of 98 tasks to be tackled by the Government within two years to guarantee immigrants’ rights, give them access to public services and assist them in the process of integration. It covers broad areas, such as employment, education, health and social affairs, and includes the completion of a bill on the integration of immigrants.
77. However, these goals were overshadowed by the collapse of the banking system in October 2008, plunging the country into financial and political crisis. Thereafter, all attention was focused on economic recovery and fighting

organised crime. This accounts for the absence of significant progress in integration and limited implementation of the Action Plan; around half of the tasks have been carried out or are on-going.

78. This said, ECRI is pleased to note that the authorities are now drafting the above-mentioned bill on the integration of immigrants which they plan to submit to Parliament in the Autumn of 2011. The bill focuses on the coordination of public services for immigrants and gives a legal basis to the Immigration Council. The latter is an inter-ministerial body under the Ministry of Welfare whose aim is to foster integration and serve as a consulting body for the Government on immigration issues, although it does not represent immigrants.
79. ECRI encourages the authorities to complete work on the bill on the integration of immigrants so that the law can be adopted as soon as possible.
80. In its third report, ECRI urged the Icelandic authorities to provide immigrants without sufficient knowledge of the Icelandic language with Icelandic language training that meets their demands. ECRI recommended that the Icelandic authorities monitor the quality of Icelandic language courses provided in practice and ensure that adequate quality standards are met throughout the country. It also recommended that the Icelandic authorities ensure that these courses are tailored as much as possible to the individual circumstances of the person concerned. ECRI stressed that courses should be available at genuinely affordable costs and that, ideally, language courses should be provided without costs for immigrants and during working hours.
81. ECRI notes that immigrants in receipt of unemployment benefits are entitled to Icelandic language classes free of charge. However, funding for language classes for other foreigners has been cut amidst national cuts in all areas following the financial crisis. Prior to 2009, courses were subsidised by the State and people only had to pay a symbolic fee. Since 2009, the State covers only 50% of the costs of the courses.
82. ECRI notes that trade unions subsidise up to a further 30% of the costs of language classes for working people. As a result, those in employment have only to pay around 20% from their own pockets. However, ECRI has been informed that even this cost is problematic for some people.
83. The Reykjavik Municipality reported that employed immigrants are entitled to two sets of 60 hours of Icelandic classes free of charge during their working time. ECRI commends this important assistance provided to immigrants in the capital and encourages other municipalities around the country to undertake similar commitments.
84. However, those who are not in the job market do not receive any further assistance to cover the costs of language classes. ECRI notes that for most people this represents a significant amount and is prohibitive. For example, local authorities have reported that their attempts to promote intercultural events and gatherings to assist the integration prospects of immigrants have not always been successful because it is common that many immigrants do not speak Icelandic.
85. ECRI always stresses that integration is a two-way process involving mutual recognition of the majority and minority populations. The process should enable minority groups to participate fully in society. ECRI shares the view of the Icelandic authorities that language is a key factor in integration. However, the onus of learning the language should not be seen as the responsibility of immigrants alone. The authorities should take steps to enable people to learn the official language of the country.

86. This is particularly important where, as in Iceland, immigrants who fail to learn the language to the level required can have their applications for citizenship turned down. Moreover, ECRI recalls that, under the Regulation on Foreigners of 2003, as amended in 2008, an applicant for a residence permit must have attended a course in Icelandic for foreigners of a minimum of 150 hours. Therefore, failure to learn Icelandic can have serious consequences.
87. Thus ECRI notes that, while the above-mentioned Government Policy on the Integration of Immigrants places great emphasis on the Icelandic language as the key to integration, the authorities have significantly reduced the support offered to attain the objective. ECRI understands the financial reasons behind the cuts, but believes that the effect of withdrawing subsidies for language learning is counter-productive and unfairly places the burden of integration on the shoulders of immigrants.
88. ECRI recommends that the authorities return to their previous practice of providing language classes for non-Icelandic speakers at minimal costs for everyone. Alternatively they could consider introducing a system of financial means testing to ensure that all immigrants have equal opportunities and access to learning Icelandic.
89. In its third report, ECRI recommended that the Icelandic authorities ensure that persons without sufficient command of the Icelandic language have access to good quality interpretation in all circumstances where the exercise of their rights is at stake.
90. ECRI notes that the situation described in its third report has not changed. Although the law provides for interpretation free of charge in healthcare matters and in court proceedings, there is still no obligation to provide interpretation for other legal procedures outside court. ECRI notes that child custody agreements in divorce cases are drawn up and signed at district magistrates' offices. Some district magistrates do provide interpretation while others rely on the Icelandic spouse to act as the interpreter. Cases of immigrant women signing away the custody of their children, without realising it, have been reported. ECRI considers it unacceptable that a person can be required to sign legal documents in matters of such importance without the services of an impartial interpreter when this is clearly needed.
91. Furthermore, regarding interpretation, it is generally acknowledged that the quality of services is still poor. Only in court proceedings is the use of licensed interpreters required. In most other areas, interpreters work unlicensed. This is due to a shortage of people with the necessary skills in both Icelandic and languages spoken by immigrants. Clearly the majority of immigrants arrive in Iceland without any knowledge of Icelandic and first have to learn the language. ECRI understands that it will take time to reach high standards in this field and encourages the authorities to invest both in providing Icelandic courses to foreigners (see recommendation above) as well as in training interpreters.
92. In its third report, ECRI encouraged the Icelandic authorities to take steps to ensure that immigrants gain access to professions reflecting their level of educational attainment and professional experience. It encouraged them to take steps to improve recognition of foreign diplomas and qualifications and to raise awareness among employers of racial discrimination and how to avoid it.
93. According to the authorities, a liberal regime of recognition has been introduced for people coming from outside the EEA on the same principles as those from within the EEA. It is based on EU Directive 2005/36/EC on the recognition of professional qualifications, which obliges EU Member States to consider the qualifications acquired in another Member State to allow access to a regulated

profession in their territory. In practice, however, there are still difficulties due to lack of certificates and documents proving qualifications or experience. As a result, it is reported that, with the exception of nurses, only few immigrants have employment corresponding to their level of education and most do not attempt to make use of their qualifications.

94. In its third report, ECRI recommended that the Icelandic authorities ensure that the rights of non citizens to private and family life and non-discrimination are thoroughly respected. It recommended that they repeal the provisions introducing a 24-year minimum age requirement for spouses of non-EEA residents of Iceland. It also strongly recommended that the Icelandic authorities ensure that the provisions governing the granting of residence permits to persons over 18 allow young people pursuing education to continue to do so without being faced with the risk of deportation.
95. ECRI is pleased to note that the 2008 amendments to the Act on Foreigners have removed the minimum age requirement for temporary residence permits in family reunification cases. Article 13 now states that members of the immediate family of an Icelandic citizen or a foreign national living in Iceland may, in response to an application, receive a temporary residence permit.
96. However, under Article 13(3), in all cases where the spouse is aged 24 years or under, an investigation into the genuineness of the marriage is conducted by the Directorate of Immigration. The investigation to ascertain whether a sham or forced marriage might be involved includes interviews with both spouses, surveillance of the home and examination of social network accounts, such as Facebook.
97. ECRI welcomes the new provisions of Article 13(5) which address the concerns raised in its third report regarding the pursuit of education. This states that the temporary residence permit of a foreign national who has lived in Iceland on a temporary residence permit for immediate family members until the age of 18, but has lost the entitlement to such residence on reaching the age of 18, may be extended provided that the conditions concerning support, medical insurance and accommodation are met and the person is either pursuing studies or working in Iceland.

- *Immigrant women*

98. In its third report, ECRI encouraged the Icelandic authorities to strengthen their efforts to reach out to immigrant women, inform them of their rights and provide them with opportunities to learn the Icelandic language and to participate in society. It strongly recommended that they ensure, including by introducing the necessary changes to legislation, that foreign women who are victims of domestic violence are not forced to stay in violent relationships to avoid deportation.
99. ECRI welcomes the new provisions of Article 13(6) of the Act on Foreigners. Now, if a marriage, registered partnership or cohabitational relationship is dissolved because the foreign national or his/her child has met with abuse or violence in the relationship, then under special circumstances and if cogent considerations of fairness favour such a course of action, a temporary residence permit may be extended even though the grounds for residence in Iceland have changed. Factors including the length of the relationship and the connections that the foreign national has with Iceland are taken into consideration. Thus, in principle, women no longer have to endure situations of domestic violence for fear of being deported. The authorities have reported that so far nine women have received permits to stay in Iceland under these new provisions.

100. ECRI recommends that the authorities monitor the situation of immigrant women who are victims of domestic violence and the effectiveness of the new provisions of Article 13(6) of the Act on Foreigners.

101. ECRI is also pleased to note that booklets entitled “Your rights: Important information for foreign women in Iceland” have been produced by the Ministry of Welfare. The booklets provide simple, clear but detailed information on gender equality, marriage, violence in intimate relationships, divorce, child custody and residence permits. These exist in ten languages and are considered to be of high quality.

## Muslims

102. In its third report, ECRI recommended that the Icelandic authorities take steps to monitor and address any manifestations of racism and discrimination towards Muslims and drew attention to its General Policy Recommendation No. 5.

103. ECRI regrets that no efforts have been made to monitor racism and discrimination towards Muslims. As mentioned in the section on Racism in Public Discourse - Media, including the Internet, and publications, a television channel and several websites are known to disseminate hate speech against Muslims. As a result, Muslims in Iceland feel that Islamophobia has become institutionalised, and that the situation is worse than five years ago. ECRI has, in this connection, made a recommendation in § 70 relating to monitoring of the Internet.

104. In its third report, ECRI recommended that the Icelandic authorities ensure that the application for the building of a Mosque and Muslim cultural centre be examined without further delay. It encouraged the Icelandic authorities to ensure, in close consultation with the concerned community, that Muslims enjoy adequate premises to practice their religion.

105. ECRI is deeply concerned to note that the above issue, on which it commented in its third report and which has been pending for more than 12 years, has not been resolved. Around 1 500 Muslims in Iceland still do not have a mosque in which to worship. Many of them currently practise their religion in premises on the third floor of an office building, which is wholly inadequate for the purposes.

106. ECRI was informed that the Muslim Association submitted its application for land and planning permission to the Reykjavik Municipality in 1999 and since then no decision has been taken. Moreover, no communication or explanation for the delay has reportedly been offered. The issue has been complicated by a similar application by another Muslim group, the Islamic Cultural Centre, in 2008. According to reports, the authorities have indicated that the two groups should unite in their application to build a single mosque.

107. ECRI considers that the hesitance on the part of the authorities to authorise the appearance of the first mosque in the country could be interpreted as a sign of religious intolerance. Furthermore, it is clearly discrimination based on religion, since other religious minority groups have experienced no trouble receiving land and permission to build places of worship<sup>5</sup>. By stalling on this issue, a clear message is being transmitted that Muslims are not welcome in Iceland. This serves to legitimise anti-Muslim sentiment, such as described above. In ECRI's view it is essential that the Icelandic authorities solve this issue rapidly.

108. ECRI strongly urges the authorities to grant permission for the Muslim communities to build mosques and allocate land in order for them to exercise

<sup>5</sup> In 2007, Reykjavik City allotted a plot of land for a Russian Orthodox church.

their right to manifest their religion in worship, as guaranteed under Article 9 of the ECHR.

## **Jews**

109. In its third report, ECRI recommended that the Icelandic authorities monitor the situation as concerns manifestations of antisemitism and react to any manifestations that may occur. It drew the attention of the Icelandic authorities to its General Policy Recommendation No. 9 on the fight against antisemitism.
110. ECRI is not aware of any issues of racism or intolerance concerning Jews. The Jewish community is very small and is not registered.

## **“Quota” refugees**

111. In its third report, ECRI reiterated its recommendation that the Icelandic authorities provide reception of “quota” refugees with a stronger legal basis, in order to limit variations in the implementation and conditions of such reception. It encouraged the Icelandic authorities to develop further, in close co-operation with civil society and other relevant organisations, the programmes aimed at favouring active participation of quota refugees into Icelandic society and the mutual integration of this part of the population with the local communities. It recommended that the Icelandic authorities address any shortcomings in refugees’ access to financial support measures for university education.
112. Article 51 of the Act on Foreigners, as amended in 2010, states that the Immigration Office may permit groups of refugees to enter Iceland in accordance with a decision by the Government and following proposals of the Refugee Council. A foreigner permitted to enter Iceland in this way is issued a four-year residence permit following which an application can be made for a permanent residence permit or Icelandic citizenship after five years. ECRI welcomes the legal basis given to the reception of “quota refugees”, although this does not limit variations in the numbers.
113. In 2007 the Government announced the establishment of an annual resettlement quota of 25 to 30 refugees. That year it received 30 individuals from Columbia and in 2008 a total of 30 refugee Palestinians from Iraq. Then Iceland stopped or reduced its intake of “quota” refugees. In 2009 none were invited and in 2010 there were only six. At the time of writing this report, the authorities were uncertain how many, if any, would be invited to resettle in Iceland in 2011.
114. While ECRI understands the financial considerations behind these cuts, it urges the authorities not to abandon altogether the “quota” refugee programme, which it considers an extraordinary example of good practice. Iceland is one of only 25 countries worldwide that have made an agreement with the United Nations High Commissioner for Refugees (UNHCR) to receive each year a certain quota of refugees for resettlement<sup>6</sup>.
115. “Quota” refugees have been provided with housing, full social welfare assistance, healthcare at the same level as for Icelanders, psychological assistance, language courses, vocational training and help finding employment after completing the integration programme. Under the Icelandic Red Cross family support programme, support families provide assistance with everyday questions as well as help to establish a social network. ECRI notes that the Icelandic programme to facilitate the integration of resettled refugees is widely reported to be a model.

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<sup>6</sup> See UNHCR Global Report 2010.



116. The programme has received the support of the public and the media and ECRI considers that it would be a great pity if Iceland no longer led by its example in this field. It encourages the authorities to resume and reinforce the programme as the economic situation improves.

### **Asylum seekers and refugees**

117. In its third report, ECRI made a number of recommendations to the Icelandic authorities relating to asylum: (i) to carry out research on the low rates of recognition of refugee status, to ensure that all persons entitled to refugee status actually secure it and to improve the quality of first instance decision-making; (ii) to ensure that asylum applicants may appeal against asylum decisions before an independent and impartial judicial mechanism empowered to consider the merits of the case; (iii) to ensure that appeals against asylum decisions have automatic suspensive effect on the decision to deport; (iv) to ensure that free legal aid is available to asylum seekers from the outset of the asylum proceedings; (v) to ensure that the principle of non refoulement is thoroughly respected in all cases and to review Articles 45 and 46 of the Act on Foreigners; (vi) to strengthen their efforts to provide border control officials with good quality training on asylum issues and to extend such training initiatives to police; (vii) to assume primary responsibility for the reception of asylum seekers and embed the arrangements in legislation; to set out clear rules on the access of asylum seeker children to education; to take steps to alleviate the relative isolation of asylum seekers in the new centre; to further extend the possibilities for asylum seekers to work pending the examination of their claims; (viii) to establish safeguards for the protection of unaccompanied foreign minors.
118. Iceland continues to receive only small numbers of asylum seekers and recognition rates remain low. In 2009, 35 people applied for asylum and eight were recognised as refugees. In 2010, there were 51 asylum applications and so far 12 have been recognised. Due to its geographical location, Iceland is rarely a first country of asylum. Approximately half of all applications fall under the Dublin II Regulation<sup>7</sup> which establishes criteria for determining the State responsible for examining an application and preventing abuse of asylum procedures in the form of multiple applications. All applications for asylum lodged in Iceland are therefore first examined with a view to determine if another State party is responsible for the examination of the application and to readmit the applicant.
119. In April 2009, the Ministry of Justice appointed a committee to review laws and regulations regarding asylum and determine their conformity with international obligations. In autumn 2009, the committee issued its report containing 22 recommendations for amendments to the Act on Foreigners of 2002. These were submitted to Parliament and adopted in September 2010. ECRI has been informed that the changes (some of which are discussed below) are positive and significantly improve the situation of asylum seekers. At the same time some issues were not addressed and remain areas of concern.
120. Regarding first-instance decision making, ECRI notes that asylum seekers are now entitled to an interview with immigration officers of the Directorate of Immigration, together with a representative if they so request, following the first interview which is conducted by police. During the interview with immigration officers, representatives of the Red Cross are invited to be present. They have

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<sup>7</sup> Iceland, though not a Member State of the EU, is a party to the Dublin Convention and Dublin II by a parallel agreement.

no influence on the decision, but ensure a measure of oversight and assist with provision of information about the asylum procedure.

121. Concerning appeals, ECRI regrets that there has been no change since both its second and third reports. Asylum seekers whose applications are rejected at first instance by the Directorate of Immigration can appeal to Ministry of Interior<sup>8</sup> within 15 days. Although the review takes account of both procedure and the substance of the application, it remains an administrative procedure. If this too is unsuccessful, asylum seekers have the possibility of appealing to the courts. However, according to the authorities, before the courts the review is “primarily based on matters of procedure”. Thus, there is still no independent and impartial judicial mechanism empowered to consider the merits of the asylum application.
122. ECRI reiterates its recommendation that asylum applicants may appeal against asylum decisions before an independent and impartial judicial mechanism empowered to consider the merits of the case.
123. Regarding the suspensive effect of appeals before administrative authorities in Iceland, according to the new provisions of Article 32, a decision to deport cannot be enforced until the appeal is rejected, except in cases which fall under the Dublin II Regulation or where the Directorate of Immigration deems it obvious that there is no persecution. Nevertheless, a paragraph recently added to Article 32 states that a decision to deport cannot be enforced (i) until the person concerned has had an opportunity to make an administrative appeal or (ii) while a request for suspensive effect is pending.
124. According to Article 33, legal action in court does not suspend the effects of the decision to deport. ECRI notes that Article 33 has recently been amended to give the Minister of the Interior broader powers to suspend, at the request of the person concerned, the enforcement of the decision to deport, pending the outcome in the courts.
125. While the above provisions do represent an improvement since ECRI’s third report, they are very recent and their effects cannot be assessed. However, they appear to be rather complicated and lacking in clarity. In addition, ECRI considers that applications to suspend the enforcement of decisions to deport, pending the examination of appeals to the courts, should be dealt with by a judicial authority and not left to the discretion of the Minister of Interior.
126. ECRI recommends that the provisions of Articles 32 and 33 are revised to ensure clarity and that applications to suspend the enforcement of decisions to deport, pending the examination of appeals to the courts, should be dealt with by a judicial authority and not left to the discretion of the Minister of Interior.
127. In connection with Dublin returns, which Iceland pursues rigorously, ECRI wishes to draw attention to a recent judgment of the European Court of Human Rights<sup>9</sup> in which the Court states that when applying the Dublin II Regulation, States must make sure that the intermediary country’s asylum procedure affords sufficient guarantees to avoid an asylum seeker being removed, directly or indirectly, to his/her country of origin without any evaluation of the risks he/she faces from the standpoint of Article 3 of the ECHR. In addition to procedural guarantees, States to which Dublin returns are made must also be able to offer minimum conditions of reception.

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<sup>8</sup> Previously it was the Ministry of Justice, which in January 2011 became part of the Ministry of Interior.

<sup>9</sup> Case of M.S.S v. Belgium and Greece, application no. 30696/09, judgment of the European Court of Human Rights (Grand Chamber), 21 January 2011.

128. Regarding free legal aid, the law now allows asylum seekers free legal aid at the first stage of the asylum procedure linked to the interview with the Directorate of Immigration. According to the authorities, implementing legislation will be adopted but until then the Ministry of Interior has decided that five hours will be the general rule. In addition, although this is not provided for by law, in practice asylum seekers may receive up to 20 hours of free legal aid at the appeal stage. The authorities stated that information leaflets would be drafted informing asylum seekers of their new rights. ECRI welcomes these developments.
129. As concerns Article 45 of the Act on Foreigners, ECRI regrets that no change has been introduced despite the concerns it expressed in both its second and third reports. Article 45, whose title has been renamed “Prohibition against deportation or return to where a person’s life or freedom may be in jeopardy (non-refoulement)”, states that a foreign national shall not enjoy protection if there are reasonable grounds to suspect that he/she poses a threat to national security, has been finally convicted of a very serious criminal offence or, for these reasons, presents a danger to society.
130. ECRI points out that these provisions are not in conformity with Article 33(2) of the Refugee Convention on prohibition of expulsion or return (“refoulement”). The Icelandic provisions do not make it clear, as they do in the Refugee Convention, that the exception to the rule of non-refoulement only applies to a recognised refugee who presents a danger to the security of the country “in which he is” or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community “of that country”.
131. ECRI further recalls that Iceland is bound by Article 3 of the ECHR. The European Court of Human Rights has consistently interpreted this article as constituting an absolute prohibition against the expulsion of a person to a place where he/she risks torture or inhuman or degrading treatment or punishment. This substantially limits the applicability of the two exceptions to the principle of non-refoulement in Article 33(2) of the Refugee Convention.
132. ECRI notes that the same restrictions as mentioned above are now also repeated in Article 46 on the “Right to asylum”. ECRI points out that these go beyond the scope of the exclusion clauses (which are exhaustive) set out in Article 1F of the 1951 Convention Relating to the Status of Refugees<sup>10</sup>. Thus, they are not in line with international standards.
133. The authorities have stated that the above-mentioned provisions of Articles 45 and 46 are not applied. ECRI considers this, in addition to the arguments set out above, all the more reason to remove them from the law so as to ensure conformity with international standards.
134. ECRI reiterates its recommendation that the authorities remove the provisions of Articles 45 and 46 of the Act on Foreigners which are not in conformity with international standards.
135. On the other hand, ECRI is pleased to note that Article 46 of the Act on Foreigners no longer provides that a refugee may be refused entry to Iceland on account of important national interests.

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<sup>10</sup> According to this, States must not apply the provisions of the convention to any person with respect to whom there are serious reasons for considering that he or she has committed a crime against peace, a war crime, a crime against humanity or a serious non-political crime outside the country of refuge or has been guilty of acts contrary to the purposes and principles of the United Nations.

136. Regarding training of border control officials and police, the authorities have informed ECRI that there are special courses on dealing with foreigners, including study of the relevant legislation, for the border police at Keflavik Airport. According to some reports, police lack appropriate training, especially in how to conduct a quality asylum interview. ECRI stresses the importance of these first interviews, not only to ensure that sufficient information relevant to the claim is obtained but that it is done in a manner respectful of the particular vulnerability and possible distress of the persons concerned.
137. ECRI recommends that border police are given special training in conducting a good quality asylum interview.
138. As for questions related to the reception of asylum seekers, ECRI takes note that these have now been introduced into Article 47b of the Act on Foreigners. This provides that the Minister of Interior should set rules prescribing the rights of asylum seekers, including minimum living expenses, healthcare, access to education and vocational training, and access of asylum seeking children to education. ECRI understands that the corresponding regulation is being drafted but has not yet been completed.
139. ECRI encourages the authorities to complete the regulation relating to the reception of asylum seekers as soon as possible.
140. According to the authorities, children of asylum seekers of compulsory school age<sup>11</sup> are guaranteed access to the compulsory education system in accordance with Article 47b of the Act on Foreigners<sup>12</sup> and can now enrol at school within the first week of their arrival in Iceland. However, other sources have informed ECRI that this applies only in asylum cases which will be decided in Iceland. Thus where a case is considered to fall under the Dublin II Regulation (as mentioned above, this represents about half of all asylum applications), which can take up to 80 days to process, any children involved are not admitted to school until it is clear that their cases will be processed in Iceland. The Red Cross has set up various activities in the community, but the fact remains that for almost three months, some children have no access to education. ECRI understands that the authorities are faced with difficulties making adequate arrangements for this category since their stay in Iceland might be very short. However, education is a fundamental right to be enjoyed by all children present in the territory, regardless of their legal status or that of their parents. One solution could be to set up classes within the asylum reception centre tailored to the needs of these children and provided by qualified teachers.
141. ECRI recommends the authorities to ensure that all children in the asylum procedure have access to education. They could, for instance, consider providing qualified teachers to give classes in the asylum reception centre to those children who otherwise do not attend school. They should also do their utmost to speed up the decision-making process in asylum applications involving children.
142. ECRI has been informed that in cases where the Dublin II Regulation does not apply, asylum seekers often have to wait several years for their claims to be processed. Given the small numbers of people applying for international protection in Iceland, ECRI considers that the authorities should make efforts to

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<sup>11</sup> According to the Compulsory School Act 2008, school is compulsory for children aged six to 16.

<sup>12</sup> Article 47b of the Act on Foreigners states: "A regulation shall provide for the rights of asylum seekers, including: ... b. access to education and vocational training; c. ensuring a child who applies for asylum access to compulsory education or similar education within the public school system or at the child's residence."

reduce the waiting time. This is particularly important in view of the isolated conditions of life in the asylum reception centre (see below).

143. Asylum seekers are accommodated at the asylum reception centre and apartments are provided for families. The asylum centre is located in the municipality of Keflavik, close to the airport, in a remote area some distance from the capital. Asylum seekers have the right to work and are granted a work permit if they find employment. However, due to the location of the reception centre and high unemployment in that area, ECRI has been informed that it is next to impossible for asylum seekers to find jobs. ECRI invites the authorities to consider moving the reception centre closer to Reykjavik, so that the inhabitants have a better chance of finding work and achieving self-sufficiency.
144. ECRI is pleased to note that there are now provisions in the Act on Foreigners safeguarding the rights of unaccompanied minors. Legal aid is granted from the outset and a legal spokesperson is appointed. There are provisions on interviews and age testing. Once refugee status is recognised, a custodian is appointed.
145. Lastly, ECRI has been informed that there are approximately ten cases each year of asylum seekers trying to get to Canada or the United States of America using false passports and transiting through Iceland who are arrested, tried, convicted and sentenced to 30 days in prison for the criminal offence of fraud. In addition, they are required to pay a fine of 100 000 ISK. If they request asylum they usually remain for 15 days in prison and are then transferred to the asylum reception centre. Concerns have been expressed about this practice which, in certain cases, could raise issues under Article 31 (refugees unlawfully in the country of refuge) of the 1951 Convention Relating to the Status of Refugees<sup>13</sup>. In addition, ECRI is concerned that having a criminal record in Iceland could negatively affect the future integration prospects of the persons concerned.

## **VI. Monitoring Racism and Racial Discrimination**

146. In its third report, ECRI recommended that the Icelandic authorities improve their systems for monitoring the situation of minority groups in different areas of life by collecting relevant information broken down according to categories such as religion, language, nationality and national or ethnic origin. It recommended that they ensure that this be done in all cases with due respect to the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group.
147. ECRI notes that the Action Plan on Immigrant Issues (see section above on Vulnerable/Target Groups - Immigrants) contains objectives relating to the collection of statistical data on the number, origin, age and distribution of immigrants in Iceland, including second generation immigrants who have received Icelandic citizenship and distinguishing those whose parents are/were both of foreign origin and those who have one Icelandic parent.
148. According to a law which took effect on 1 January 2008, Statistics Iceland is the centre for official statistics in Iceland and collects, processes and disseminates data on the economy and society, including in the areas of education, culture, media, employment, living conditions and social matters, health and gender, as

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<sup>13</sup> Article 31, paragraph 1, states: "Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence."

well as demographic and population statistics. It is a professionally-independent institution under the aegis of the Minister of Economic Affairs. According to various sources, the new database makes it much easier to access data on immigrants in Iceland in different areas.

149. In its third report, ECRI recommended that the Icelandic authorities support research aimed at gaining a better idea of the real situation of vulnerable groups in Iceland and on attitudes of the majority population towards them. It recommended that such research include a strong focus on discrimination including direct, indirect and structural discrimination. ECRI furthermore recommended that the Icelandic authorities ensure that research is used in practice to inform policy decisions targeting vulnerable groups.
150. The above-mentioned Action Plan provides for the carrying out of attitude surveys among immigrants as well attitudes of the public towards immigrants, for the purpose of combating prejudice and antagonism towards them. ECRI has referred to studies conducted on immigrants and attitudes of the majority population towards them in its section on Racism in Public Discourse - Climate of opinion and political discourse.

## **VII. Conduct of Law Enforcement Officials**

151. In its third report, ECRI invited the Icelandic authorities to consider the establishment of an independent mechanism, separate from police structures, for investigating allegations of police misconduct, including racist or racially discriminatory behaviour.
152. ECRI notes that an independent mechanism for the investigation of allegations of police misconduct has not been established. Complaints can be addressed to the police or to the State Prosecutor. The latter, along with the Head of the Police Academy, investigates the complaints. In 2010 there were 29 allegations of police misconduct, but none concerning racism or racial discrimination. Each year one or two cases are prosecuted and mostly result in convictions. The authorities have informed ECRI that according to opinion polls, the police rank very highly in terms of public trust. As a matter of principle, however, ECRI considers that States should provide for a body, independent of the police and prosecution authorities, entrusted with the investigation of alleged cases of police misconduct, including racist or racially discriminatory behaviour.
153. In its third report, ECRI reiterated its recommendation that the Icelandic authorities take steps to promote better representation of persons of immigrant background within the police ranks.
154. No special steps appear to have been taken to recruit more immigrants into the police, even though the Action Plan on Immigrant Issues (see section above on Vulnerable/Target Groups - Immigrants) includes the goal of increasing the number of police staff with multicultural backgrounds. The number of people of foreign background in the police remains low. In ECRI's view, it is important to ensure that the composition of the police reflects the diversity of the population. It is also important to equip the police with the skills, including language skills, to increase their effectiveness by enhancing communication with and gaining the trust of minority groups. Therefore, ECRI invites the authorities to consider ways to increase the recruitment of immigrants to the police.

## **VIII. Education and Awareness Raising**

155. In its third report, ECRI recommended that the Icelandic authorities strengthen their efforts to provide human rights education in schools with special emphasis on equality and respect for difference. It recommended that the importance of

human rights be clearly and adequately reflected in the school curriculum and that the authorities consider making human rights a compulsory subject at both primary and secondary level. ECRI also recommended that the authorities strengthen their efforts to ensure that intercultural education be effectively implemented in practice as a school policy in all schools.

156. The Ministry of Education, Science and Culture issued the National Curriculum Guide setting out the objectives of the Compulsory School Act of 2008 and instructions on how to implement them in practice. This was followed in 2011 by the publication of a new national curriculum for pre-schools, compulsory schools and upper secondary schools. It is based on six fundamental pillars of education, one of which is democracy and human rights and another is equality. As for intercultural education, this is not mentioned in the law or in the guide but the latter emphasises the study of ethical consciousness, social awareness and pupils' awareness of their civil responsibilities and duties. ECRI believes that quality education includes diversity and that schools must recognise and respect the multicultural context of the country.
157. ECRI recommends again that the authorities take steps to implement intercultural education in practice as a policy in all schools.
158. In its third report, ECRI recommended that as part of their efforts to improve human rights and intercultural education in schools, the Icelandic authorities pay particular attention to teacher training. ECRI encouraged the Icelandic authorities to work closely with universities to ensure adequate provision of intercultural education and diversity issues.
159. According to the Act on the Education and Recruitment of Teachers and Head Teachers in Pre-School, Compulsory School and Upper Secondary School of June 2008, teachers at all levels must now have a masters degree. The School of Education at the University of Iceland is responsible for training teachers. According to the authorities, there are elective courses on issues related to human rights, equality and diversity.





## INTERIM FOLLOW-UP RECOMMENDATIONS

The three specific recommendations for which ECRI requests priority implementation from the authorities of Iceland, are the following:

- ECRI strongly urges the authorities to grant permission for the Muslim communities to build mosques and allocate land in order for them to exercise their right to manifest their religion in worship, as guaranteed under Article 9 of the ECHR.
- ECRI strongly encourages the authorities to complete the work on an anti-discrimination bill, taking account of its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, so that the law can be adopted as soon as possible.
- ECRI reiterates its recommendation that the authorities introduce a criminal law provision that expressly considers the racist motivation of an offence as a specific aggravating circumstance.

A process of interim follow-up for these three recommendations will be conducted by ECRI no later than two years following the publication of this report.



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