



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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COMMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 19 OF THE CONVENTION**

**Third periodic reports due in 2005**

**Addendum**

**ICELAND\* \*\* \*\*\***

[28 November 2005]

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\* For the initial report of Iceland, see CAT/C/37/Add.2; for its consideration, see CAT/C/SR.350, 351 and 357 and *Official Records of the General Assembly, Fifty-fourth session, Supplement No. 44 (A/54/44)*, paras. 53-60. For the second periodic report, see CAT/C/59/Add.2; for its consideration, see CAT/C/SR.552 and 555 and Official Document CAT/C/CR/30/3.

\*\* The annexes to the report submitted by the Government of Iceland may be consulted in the Secretariat's file.

\*\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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## **Introduction**

1. Below follows Iceland's third periodic report under Article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (herein referred to as the Convention). The report was compiled in accordance with the guidelines issued by the Committee on 2 June 1998 (CAT/C/14/Rev.1). The information in this report refers to the period from 2001-1 October 2005.

2. Iceland's initial report (CAT/C/37/Add.2 of 9 June 1998) contained a description of Iceland's constitutional structure and form of government. It also contained a description of the human rights provisions of the Constitution and the principal human rights conventions to which Iceland is a party, and of the status of these conventions under Icelandic law. The report contained a survey of the provisions in Icelandic law that prohibit torture and make it a criminal offence, and of rules that are designed to prevent it. Finally, an account was given of the remedies available to individuals who maintain they have been subjected to torture. This information was updated in Iceland's second report (CAT/C/59/Add.2 of 8 May 2002); the same procedure will be followed in the present report.

3. Part I of the report falls into two sections. In the first of these (A), an account is given of the changes that have occurred regarding the general information submitted in Iceland's first two reports. The second section (B) presents an account of developments in legislation, measures taken by the government, judicial practice and other matters that have a bearing on individual provisions of the Convention. Where changes to general information concern particular provisions of the Convention an account of them will be given in section (B). Part II of the report contains the supplementary information requested by the Committee in its conclusions and recommendations following the submission of Iceland's second report. Part III of the report contains information on measures that have been taken in accordance with the Committee's conclusions and recommendations following its examination of Iceland's second report.

### **I. NEW MEASURES AND DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION**

#### **A. New measures and developments regarding the general observations in the initial and second report of Iceland**

4. Paragraph 32 of Iceland's initial report referred to the Prisons and Imprisonment Act, No. 48/1988. This Act was repealed by the Application of Punishments Act, No. 49/2005, which was passed by the Althingi on 4 May 2005.

5. In compiling the draft of the new Application of Punishments Act, consideration was given, amongst other things, to the European Prison Rules issued by the Council of Europe in February 1987 and to the opinions given by the Parliamentary Ombudsman that refer to matters involving prisoners and have been published in recent years. Concurrently with the compilation of the new Act, work on policy planning was carried out by the Prison and Probation Administration, leading to the compilation of a report with the title: "The Aims and Future Development of the Prison System". This report addressed important issues concerning the application of the Application of Punishments Act; amongst other things, it stated that the view of the Prison and Probation Administration was that the main aim of imprisonment was that it

should be imposed securely so as to guarantee the safety of the general public before the law while respecting certain specific and general deterrent effects. The authority considered it important to set the goal of ensuring prisoners a safe and properly structured environment in which to serve their sentences, with an emphasis on humane communication, based on mutual respect, and that the facilities and environment should be of such a nature as to encourage prisoners to tackle their problems. In order to achieve these aims, the report stated, it was necessary to draw up individually-based programmes on the structure of the service of the prison sentence for each individual prisoner at the beginning of the service of their sentences, which would be followed by the prisoners with the assistance of trained and educated staff. At the end of their sentence periods, measures should be taken in collaboration with the prisoners to ensure that they have a fixed abode, are in regular contact with their families and friends, are able to seek help and manage to make their way successfully in the community.

6. In the new Application of Punishments Act, No. 49/2005, a large number of provisions in various acts and regulations were brought together in a single piece of legislation defining the rights and obligations of persons on whom sentence is passed. Existing rules were clarified and certain provisions were given a stronger legal basis, in addition to which various innovations were introduced. Examples of these innovations are the provision on the drawing up of a treatment programme at the beginning of the term of imprisonment and the provisions on prisoners' rights to keep abreast of current events in the media, to pursue leisure activities, to contact a priest or another comparable representative of a registered religious community and the right of foreign prisoners to contact their embassies or other comparable representatives of their home countries. The provisions of the Act also augment prisoners' right to regular day-leave from prison. Some provisions aim to improve security in the prisons, in the interests both of the inmates and the staff. Amongst other things, legal provision is made for the use of force by prison warders, with the circumstances in which the use of force is permitted specially defined. Provisions have been introduced in order to deal with the smuggling into prisons of items and substances which prisoners are not permitted to have in their keeping while in prison. A Regulation on the Application of Punishments will shortly be issued under the Act on the Application of Punishments; this will contain more detailed provisions on the implementation of various provisions of the Act, e.g. as regards visits to prisoners, prisoners' access to the media, the conditions for probationary release and remand prisoners. Further discussion of the appropriate provisions of the Act and the envisaged Regulation follows below in the examination of individual provisions of the Convention.

7. Reference was made in paragraphs 31 and 43 of Iceland's initial report to the Regulation on Custody on Remand, No. 179/1992. This Regulation will be repealed by the aforementioned Regulation on the Application of Punishment, which will be issued shortly and include some provisions on remand prisoners.

8. Paragraph 33 of Iceland's initial report and paragraph 6 of its second report mentioned the visits by the Committee for the Prevention of Torture which functions under the European Convention against Torture. The Committee was in Iceland 3-10 June 2004 and visited several police stations, some prisons and the Psychiatric Ward of the National and University Hospital. It addressed many recommendations to the Government of Iceland; its report is submitted as enclosure I to the present report. The replies by the Government of Iceland are also submitted as enclosure II.

9. Paragraph 35 of Iceland's initial report cited examples of how the law responds to the danger of torture or other inhumane treatment where individuals are placed in full personal charge of other individuals or are dependent on other persons by reason of their sensitive position. Amongst other things, mention is made of the provisions of the Protection of Children and Young Persons Act, No. 58/1992. This Act was repealed by the Child Protection Act, No. 80/2002, in Article 82 of which an attempt was made to institute a legal framework for the use of coercive measures in homes and institutions that are operated under the act; the provisions of the Act No. 58/1992 were very limited in this area. It is stated that the general principle is that homes and institutions are to be operated in such a way that consideration is given to the child's right of self-determination and the child's will and right to communicate with such other persons as he or she wishes, taking into account what is compatible with the child's age, maturity and the extent to which this is compatible with the aim of the placement in the home and responsibility for the functioning of the home and the well-being and safety of the child and other persons. It is stated that the use of physical or mental punishments on children is prohibited. It is also stated that children may not be locked up, placed in isolation or treated with other methods of coercion or disciplinary action unless this is necessary, in which case it is to be done in accordance with regulations set by the Minister of Justice after receiving the proposals of a child welfare committee. It is furthermore stated that the monitoring of children's postal correspondence, e-mail and telephone conversations is not permitted unless particular circumstances apply, in which case such monitoring is to be in accordance with the aforementioned regulation. Under Article 98 of the Act, mental or physical maltreatment of a child by a person in charge of the child, degrading sexual or other conduct towards the child or mental or physical neglect of a child that endangers its health or life is punishable by imprisonment. Furthermore, persons who punish, threaten or frighten children in a way that may be expected to damage them mentally or physically are liable to be punished by imprisonment under the first paragraph of Article 99 of the Act.

10. Paragraph 44 of Iceland's initial report mentioned that under the Prisons and Imprisonment Act, No. 48/1988, there were two types of prison in Iceland. As is stated above, Act No. 48/1988 was repealed by the Application of Punishments Act, No. 49/2005. Article 3 of the new Act abolished the distinction between prisons for those serving sentences and remand prisons; in fact, no special remand prisons have been in operation in Iceland for many years. The Act provides for remand prisoners' being held together with convicted prisoners when it is not considered necessary to keep them in isolation. The explanatory notes accompanying the bill which became Act No. 49/2005 state that it had been argued that this arrangement was at variance with the first paragraph of Article 68 of the Constitution and Article 3 of the European Convention on Human Rights. In answer to this, it was stated that the number of remand prisoners fluctuated, and more often than not, few prisoners were held on this basis. Over the previous five years, the average number of remand prisoners had been 14, of which 10 had not been held in isolation. It was argued that these figures showed that it was difficult to guarantee these prisoners suitable facilities in a special prison. This arrangement, with remand prisoners' being placed among prisoners who are serving sentences following conviction, does not in any way constitute the expression of a position on their innocence or guilt; it avoids their being completely isolated socially and ensures them satisfactory access to study and other comparable facilities.

11. In paragraph 44 of Iceland's initial report and paragraph 9 of its second report, mention was made of the total number of places in prison and the numbers of convicted prisoners serving sentences and remand prisoners during the periods covered by the reports. The total number of prison places in Icelandic prisons during the period 2001-2005 was 137. This is one less than was stated in the initial and second reports, the reason being that one place has since been taken for other purposes. The table below shows the average number of convicted prisoners and remand prisoners during the period from 2001-1 October 2005. The figures in parentheses refer to prisoners who were serving their sentences outside prison, e.g. in hospital or treatment centres for alcohol and drug abuse.

Year	Convicted prisoners	Remand prisoners
2001	101.6 (14.2)	15.1
2002	98.8 (13.8)	15.7
2003	114.5 (16.6)	11.4
2004	116.5 (16.4)	12.8
2005	114.2 (20)	16.9

## **B. New measures and developments regarding individual provisions of the Convention**

### **Article 2**

12. Article 7 of the Application of Punishments Act, No. 49/2005, established an authorisation in law for the use of force by prison warders. The general rule is that prison staff are to carry out their work without using force. The aforementioned provision provides for the use of force under special conditions; these are given in an exhaustive list. Specifically, provision is made for prison staff to use force in the course of their work only if this is considered necessary in order to prevent an escape, to defend themselves against an imminent attack, to overpower violent resistance, to prevent a prisoner from harming himself or others and to prevent acts of vandalism. Prison staff may also use force if this is considered necessary to carry out measures in accordance with orders when it is necessary to carry them out immediately and the prisoner refuses or neglects to comply with instructions regarding them. It is stated in the provision that force may involve physical holds or the use of the appropriate defensive equipment. It is stated specifically that a doctor is to be summoned if there is a suspicion that the use of force has resulted in injury, in cases involving disease or if the prisoner himself requests medical assistance.

13. Ethical rules for the police were issued in June 2003. These state that the excessive use of force, whether physical or verbal, is prohibited. This reiterates the provision in the rules on the use of force by the police of 22 February 1999, to which reference was made in paragraph 10 of Iceland's second report, and Articles 13 and 14 of the Police Act, No. 90/1996. In addition, additional emphasis has been given to this matter in training in the National Police College.

14. No special rules have been set regarding the use of force by employees of the Coast Guard; under the Coast Guard Act, No. 25/1967, they exercise police powers under certain circumstances. Thus, it is envisaged that Coast Guard employees will employ the rules described above as a guideline when they exercise police powers.

### Article 3

15. Paragraph 52 of Iceland's initial report stated that Icelandic law ensured that a person could not be extradited or sent back to another State if there was significant reason to believe that he or she faced a risk of torture there. It was stated that provisions to this effect were chiefly found in the Act on Extradition and Other Assistance in Criminal Matters, No. 13/1984 and the Act on Supervision of Foreigners, No. 45/1965. A separate Act, No. 7/1962, applies to extradition to Denmark, Finland, Norway or Sweden.

16. In paragraph 11 of Iceland's second report it was mentioned that a bill on a new Act on Foreigners had been submitted to the Althingi in the autumn of 2001. This bill was passed on 15 May 2002, becoming Act No. 96/2002. An English translation of the Act is submitted as enclosure III. The first paragraph of Article 45 of the Act states a prohibition on sending foreign nationals to regions where they have reason to fear persecution that may result in their being regarded as refugees, or if there is no guarantee that they will not be sent from there to such regions. This prohibition on repatriation also extends to those who, due to reasons similar to those stated in the definition of refugees, are in imminent danger of their lives or of being subjected to inhuman or degrading treatment. The explanatory notes to the bill state that this was considered necessary in the light of Article 3 of the Convention. It should be reiterated that protection under this provision applies to decisions taken under the Act on Foreigners, and does not apply to decisions on the extradition of criminals; extradition is covered, as before, by the Act on Extradition and Other Assistance in Criminal Matters, No. 13/1984, and as appropriate, the Act on the Extradition of Criminals to Denmark, Finland, Norway or Sweden, No. 7/1962.

17. A description of the principal provisions and applications of the Act on Extradition and Other Assistance in Criminal Matters, No. 13/1984 was given in paragraphs 53-55 of Iceland's initial report, to which reference is made here. Paragraph 13 in Iceland's second report states that a new paragraph was added to this Act by the Act No. 15/2000, providing for agreements to be concluded with other states to the effect that specific offences were not to be regarded as political offences. It was stated in the second report that no such agreements had yet been made with other states. Iceland has now undertaken an obligation to regard certain offences as not constituting political offences; for example, the authorisation in the fifth paragraph of Article 5 of the Act No. 13/1984 was invoked in connection with the ratification of the International Convention for the Suppression of Terrorist Bombings of 15 December 1997 and the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999.

18. Article 57 of Iceland's initial report mentioned the legal grounds for refusing foreign nationals entry into Iceland and deporting foreign nationals; these were contained in the Foreign Nationals' Supervision Act, No. 45/1965. As stated above, this Act was repealed by the Act on Foreigners, No. 96/2002. The rules applying to the refusal of entry and expulsion of foreign nationals are found in Section IV of the new Act, and are much more detailed than those of Act No. 45/1965. The third paragraph of Article 18 states that if a foreign national claims to be a refugee, or gives other information that indicates that the first paragraph of Article 45 applies to him, then the matter is to be referred to the Directorate of Immigration for treatment and a decision. When such circumstances apply, the foreign national may not be expelled on arrival in Iceland. Section VII of the Act contains rules that are designed to guarantee the protection in law of those who seek asylum in Iceland as refugees. These are based on the definition used in the Convention relating to the Status of Refugees of 1951, the right to asylum in Iceland thus



being determined by the internationally accepted definition of refugees. Under the first paragraph of Article 46 of the Act, a refugee who is in Iceland, or who arrives in Iceland, generally acquires the right to asylum in the country. However, the right to asylum does not apply to refugees who fall under items a-e of the provision; it should nevertheless be stated that while there is no obligation to grant such refugees asylum, it is nevertheless always possible to do so. The Article also stipulates the rights of refugees' next-of-kin to asylum in Iceland, and provides for the treatment of applications for asylum. Under Article 47 of the Act, the legal effects of asylum are such that the foreign national receives the legal status of a refugee, and is granted a permit to stay in Iceland. His legal status is governed by Icelandic law and the Convention relating to the Status of Refugees or other international instruments concerning refugees. In cases where an application for asylum has been submitted but cannot be granted, the authorities are automatically required to examine whether the asylum seeker should be granted a permit to stay on humanitarian grounds under the second paragraph of Article 11 of the Act, cf. the second paragraph of Article 45 of the Act. Appeals against decisions by the Directorate of Immigration to reject applications for asylum may be brought before the Ministry of Justice. There have been no cases in the past five years where applications for asylum in Iceland have been accepted. The table below presents figures from 2001-1 October 2005, showing the number of asylum applications and how they were dealt with, specifically, the number of applications that were withdrawn, the number of cases in which permits to stay were granted on humanitarian grounds, the number of cases in which asylum seekers were deported and finally how many appeals were lodged with the Ministry of Justice against decisions to reject asylum applications. The figures in parentheses refer to the number of applications which have not yet been dealt with.

Year	Applications	Applications withdrawn	Residence permits	Deportations	Appeals
2001	52	16	7	29	3
2002	117	60	5	52	14
2003	80	30	3	47	12
2004	76 (4)	15	0	57	25
2005	69 (11)	3	0	55	25

#### Article 4

19. Reference is made to Iceland's initial report regarding this article. Paragraph 65 of the report states that Section 132 of the General Penal Code, No. 19/1940, provides for fines or penal custody, unless heavier penalties are provided for in law, if a civil servant, intentionally or through negligence, does not observe the correct procedures in the treatment or resolution of a case, an arrest, search, imprisonment, application of punishment or seizure, or violates other rules of this type. By Act No. 54/2003, amending the General Penal Code, the wording of this provision was changed; the text now reads "lawful" instead of "correct" procedures; it was considered that the term "correct", applying to procedures, was too broad and did not state with sufficient clarity the standard to be used to establish whether a procedure was "correct" or not. Another amendment made to this provision was that the words "or violates other rules of this type" were replaced by "or in the application of other similar measures".

### **Article 5**

20. Paragraphs 70 and 71 of Iceland's initial report state that under Icelandic law an offence as defined in Article 1 of the Convention comes under Icelandic criminal jurisdiction in all the cases enumerated in Article 5 of the Convention. An account was also given of the amendments made to the General Penal Code by Act No. 142/1995 in order to meet the commitments set forth in the second paragraph of Article 5 of the Convention. Reference is hereby made to that discussion.

### **Article 6**

21. Regarding this Article, please refer to Iceland's initial report. Paragraph 77 of that report makes reference to Regulation No. 170/1992 on Custody on Remand. As stated above, this Regulation will be repealed when a Regulation on the Application of Punishments will be issued.

22. In connection with the third paragraph of Article 6 of the Convention, it should be mentioned that Article 40 of the Application of Punishments Act, No. 49/2005, prescribes that foreign prisoners have the right to contact the embassies or consuls of their countries. In cases where the prisoner is a stateless person or a refugee, the prison is to assist him to contact the representative of domestic or international organisations which defend the interests of such persons. This provision also applies to remand prisoners; it is stated in Article 77 of the Act that the provisions of Section III of the Act concerning prisoners' rights and obligations apply to remand prisoners providing that no other arrangements are entailed by the restrictions that a remand prisoner may be made to comply with under the Code of Criminal Procedure. Further examination of provisions applying to remand prisoners is to be found in the discussion of Article 11 of the Convention.

### **Article 7**

23. Paragraphs 80-85 of Iceland's initial report described the structure of an investigation arising out of a suspicion that a civil servant has committed an offence of the type mentioned in Articles 1 and 4 of the Convention. They also described the rules applying to a decision to prosecute in such cases. It was stated that Icelandic law did not provide for any reduction of the demands for available proof in connection with prosecution or determination of guilt in the cases mentioned in paragraph 2 of Article 5 of the Convention. Mention was also made of the right to a fair hearing under Article 70 of the Constitution. Paragraph 18 of Iceland's second report stated that the National Commissioner of Police was no longer in charge of the investigation of cases involving alleged offences by police officers in the course of their work. Please refer to the discussion there regarding this Article.

### **Articles 8 and 9**

24. Regarding these Articles, reference is made to paragraphs 86-94 of Iceland's initial report. These contain a discussion of the main features of Icelandic legislation regarding extradition and assistance provided to foreign states in connection with the handling of criminal cases.

## Article 10

25. Paragraphs 96 and 97 of Iceland's initial report gave an account of the activities of the National Police College. This information was updated in paragraph 20 of Iceland's second report, which also stated the numbers of new recruits admitted to the college in 2001 and 2002. No changes have been made to the structure of the training course in the college since the second report was compiled; it should, however, be mentioned that additional emphasis has been placed on courses in the college's further education department. The figures regarding the numbers of trainees in the National Police College now need updating: in 2003 there were 41 trainees; in 2004 there were 40; in 2005 there were 32 and it is planned that 36 new recruits will begin studies in 2006.

26. Paragraph 96 of Iceland's initial report described the admission requirements at the National Police College. Under Act No. 56/2002, a minor amendment was made to Article 38 of the Police Act, No. 90/1996, which lists the admission requirements for the Police College. Under this amendment, the unconditional requirement for admission that applicants must not have been sentenced for an act punishable under the General Penal Code was changed. Instead, the general requirement is that applicants must not have been convicted of a criminal offence; this applies irrespective of whether or not the offence involved is against provisions of the Penal Code or a specific criminal statute. However, this condition does not apply if the offence in question is minor or a long time has passed since it was committed. The explanatory notes accompanying the bill stated that a waiver might apply, for example, in the case of a traffic offence in which the case was concluded by paying a fine in accordance with a settlement reached with a commissioner of police, or if the applicant had been sentenced as a teenager for a minor offence against the Penal Code, such as an act of damage to property, but had since maintained a clean criminal record.

27. Paragraph 99 of Iceland's initial report referred to Regulation No. 11/1996 regarding the requirements for the appointment of prison warders and the training of prison warders. This Regulation was replaced by the Regulation No. 304/2000 on the same matters. Under the new Regulation, the requirements applying to prospective prison warders include being aged between 20 and 40, being mentally and physically healthy, having completed at least two years' general further education or other comparable education with satisfactory results; it is also a condition that they should not have been convicted of a criminal offence under the General Penal Code. Only persons who have completed training in the Prison Warders' College may be permanently appointed as prison warders. The training for prison warders lasts nine months, divided into two semesters of theoretical instruction and practical training. Subjects covered in prison warders' training include criminology, conditions in prison, social assistance to prisoners, drug control in prisons, law and psychology. A course in human rights and ethics is also taught. The aim of this subject is that the students should acquire knowledge of the general principles of prisoners' human rights, the human rights provisions of the Constitution, the European Convention of Human Rights and the provisions on international institutions and committees concerned with the position of prisoners. At the end of each of the two semesters the students are examined in these subjects, and they do not pass the semester if they fail the examinations in three subjects. A college committee consisting of the Director of the Prison and Probation Administration, or his representative, a representative of the Ministry of Justice and Ecclesiastical Affairs and a representative of the Icelandic Prison Warders' Association considers applications for positions

as prison warders. Under Article 6 of the Application of Punishments Act, No. 49/2005, the Director of the Prison and Probation Administration appoints prison warders for terms of five years at a time.

28. Paragraph 101 of Iceland's initial report described the appointment of prison governors and of the Director of the Prison and Probation Administration under the Prison and Imprisonment Act, No. 48/1988. As has been stated, this Act was repealed by the enactment of the Application of Punishments Act, No. 49/2005, in which provision is made for the appointment of the Director of the Prison and Probation Administration and of prison governors in Articles 4 and 5. Under those provisions, the Minister of Justice appoints the Director of the Prison and Probation Administration and prison governors for periods of five years at a time. It is a condition that the Director of the Prison and Probation Administration is a lawyer.

29. It should be stated that Iceland's second report under the Convention was sent to the National Police Commissioner, the National Police College, the Director of Public Prosecutions, the Prison and Probation Administration, the National Police Warders' College, the Directorate of Immigration, the Ministry of Health, the Director-General of Public Health, the Ministry for Foreign Affairs, the Ministry of Social Affairs, the Child Welfare Agency, the Parliamentary Ombudsman, the General Committee of the Althingi, the Icelandic Human Rights Agency, the Human Rights Institute of the University of Iceland, the Icelandic branch of Amnesty International and the Icelandic Red Cross. The conclusions and recommendations of the Committee Against Torture following the submission of Iceland's second report were also sent to the same parties.

### **Article 11**

30. By Act No. 86/2004, a legal provision was included in Article 72 of the Code of Criminal Procedure, No. 19/1991, providing a general authorisation to record the questioning of suspects and witnesses on audio tapes, video tapes or digital video discs (DVDs). It was considered desirable to have this authorisation stated in law in light of the fact that it frequently happened that when it came to the hearing of cases before a court, suspects and witnesses deviated from the testimony they had given to the police, often explaining the discrepancy by saying that the police had not recorded their testimony correctly, or had subsequently altered it. As recordings of questionings demonstrate unequivocally what happens during police questioning and the taking of statements, this authorisation protects the status of the police and the interests of suspects and witnesses at the same time. More detailed rules have been set covering how audio and other recordings of police questionings are to be carried out; these specify, among other things, circumstances in which it is desirable that recordings be made of questioning sessions, the equipment that may be used and the making of reports in connection with the recording of questioning sessions.

31. Paragraph 113 of Iceland's initial report stated that the Regulation No. 179/1992 applied to custody on remand. As has been stated, this Regulation will be repealed by a Regulation on the Application of Punishments, which will be issued under the Application of Punishments Act, No. 49/2005. According to Article 77 of the Application of Punishments Act, the provisions of Section V regarding searches, body searches and physical examinations and those of Section VI regarding breaches of discipline and disciplinary measures apply to remand prisoners. The provisions of Section II regarding the application of non-suspended sentences etc., those of

Section III concerning prisoners' rights and obligations and those of Section IV regarding leave from prison apply to remand prisoners as may be appropriate unless other arrangements follow from the restrictions with which they are obliged to comply under the Code of Criminal Procedure. However, Article 77 states specifically that remand prisoners are not obliged to work while in prison. The Regulation on the Application of Punishments will contain further provisions on remand prisoners, e.g. regarding the beginning of the remand period, food and the granting of short-term leave.

32. Paragraph 115 of Iceland's initial report stated that the provisions governing the service of criminal sentences in prisons were mainly to be found in Chapter III of the Prisons and Imprisonment Act, No. 48/1988, and that the rules on security in prisons and disciplinary sanctions applied to sentenced prisoners were to be found in Chapter IV of the same Act. As has been stated above, Act No. 48/1988 has been repealed by the Application of Punishments Act, No. 49/2005. The rules on the service of non-suspended prison sentences are now to be found in Section II of the new Act, which includes provisions on work, study and occupational training in the prisons, wages and *per diem* allowances and prison health services. Section III of the Act covers prisoners' rights and obligations; these include the right to receive visits, to make telephone calls, to send and receive letters, the right of access to media, to time outdoors and to engage in leisure activities, to practice religion and to elect a spokesman to work on prisoners' interests and to represent them. Section IV of the Act contains legal provisions stating the circumstances in which prisoners are entitled to leave to spend time outside prison; these include provisions under which prisoners are able to obtain leave to spend time outside the prison in order to work, study and pursue occupational training. Section V of the Act contains provisions on the conditions for and carrying out of, searches, body searches and physical examinations; these include a provision stating that a decision to search a prisoner's cell is to be recorded, stating the reasons on which it is based. Section VI of the Act defines what is regarded as constituting a breach of discipline and the types of disciplinary measures that are to be applied when prisoners commit breaches of discipline. Provision is made for such measures to take the form of written reprimands, the deprivation of half of the payment for work, deprivation of additional equipment for which special permission is required and a reduction of visits, telephone calls and postal correspondence or isolation for up to 15 days. It is stated that isolation may only be imposed for specific offences or attempts at committing them. Before a decision to apply disciplinary measures is taken, the facts of the case are to be investigated and the prisoner is to be given the chance of acquainting himself with the evidence and materials and to express his position on the matter. This section of the Act includes provisions specifying the conditions for separating prisoners and for placing them in security cells. Appeals against decisions to apply disciplinary measures and to place prisoners in security cells may be directed to the Ministry of Justice and the prisoner is to be informed immediately about his right to appeal after a decision has been made.

### **Articles 12 and 13**

33. Paragraphs 118-119 of Iceland's initial report described impartial investigations to be carried out by the authorities in the event of a suspicion that torture has taken place, and the right that persons have to press charges if they have been subjected to torture or other inhuman or degrading treatment. Paragraph 24 of Iceland's second report stated that under Article 35 of the

Police Act, No. 90/1996, complaints against police officers for alleged criminal violations in the course of carrying out their work were to be submitted to the Director of Public Prosecutions, who was responsible for the investigation of such cases.

34. Several complaints under Article 35 of the Police Act have been received by the Director of Public Prosecutions over the past five years. There have been no cases in which policemen or other representatives of a government authority have forced persons to make confessions or to give information in connection with the investigation of cases. The following table shows the numbers of complaints against the police that have been received by the Director of Public Prosecutions from 2001-1 October 2005, and the results they have led to.

Year	Complaints	Complaints dismissed	Investigation stopped	Cases withdrawn	Awaiting decision/under investigation	Judgements/indictments
2001	18	0	9	9	0	0
2002	31	8	12	10	0	1
2003	19	0	10	7	0	2
2004	26	3	9	11	0	3
2005	13	0	3	0	10	0

35. The table below shows the number of complaints submitted to the Director of Public Prosecutions from 2001-1 October 2005, grouped according to whether they concerned brutality when making arrests, unlawful arrest, other instances of the use of force by the police, offences involving the use of police vehicles or offences involving other police activities.

Year	Brutality when making arrests	Unlawful arrests	Other use of force	Offences involving use of police vehicles	Offences in other police activities
2001	0	7	4	2	5
2002	0	15	4	0	12
2003	1	10	3	0	5
2004	0	16	2	3	4
2005	0	5	0	0	8

36. As can be seen from the table in Paragraph 32, indictments have been issued in six cases in the period from 2001-1 October 2005. In 2001 a police officer was prosecuted for violations of customs legislation and violations in the course of his work committed when he took charge of three bottles of strong alcoholic beverage which a military policeman had purchased shortly beforehand in a shop for Iceland Defense Force workers at Keflavík Airport and subsequently took them out of the agreed defence area in a police vehicle. The policeman was at the time employed in the agreed defence area at Keflavík Airport. The alcohol in question had been imported without customs duties under Act No. 110/1951 on the Legal Status of the Defence Agreement between Iceland and the United States of America and the Annex on the Status of United States Personnel and Property; the accused did not qualify for exemption from paying customs duties under the Act. The accused was acquitted, as the court found that his commission of the offence had not been adequately demonstrated.

37. Two policemen were indicted in 2003 in two separate cases for unlawful arrests, giving false testimony and committing offences in the course of their official work. Both arrests were made at night in central Reykjavík, one at a fast-food shop and the other at a night club. One of the policemen had used a gas spray-gun when he was leaving the scene of the arrest, and was charged with having done so without due occasion. Both policemen were indicted for giving false testimony, having given an inaccurate account of the circumstances of the arrests and the reason for the use of the spray-gun. They were convicted on all counts by a district court; one was given a suspended sentence of two months' imprisonment, the other a suspended sentence of five months' imprisonment. In its judgement of 27 May 2004, the Supreme Court acquitted one of the policemen of all charges but convicted the other of one instance of unlawful arrest and the unlawful use of the spray-gun and of giving false testimony; he was sentenced to two months' imprisonment, suspended.

38. Investigations of three complaints referred to the Director of Public Prosecutions in 2004 led to indictments. A police deputy attached to the Reykjavík Police Drug Squad was indicted for embezzlement and violations in the course of his work through having appropriated money that had been put in his keeping following a search and confiscation from a particular suspect. He was convicted by a district court and sentenced to nine months' imprisonment, of which six were suspended. He was however acquitted by the Supreme Court on 12 May 2005, the court taking the view that the prosecution had not demonstrated his guilt. A policeman in the General Department of the Reykjavík Police was indicted for traffic violations and violations in the course of his work in that he had not complied with the legally-prescribed procedures in the course of a police action to tackle speeding by a motorcyclist. The policeman drove a police vehicle into the middle of a traffic lane in order to try to stop the motorcycle; the result was that the motorcycle went into the front of the vehicle and the driver was thrown out of it. By a judgement of a district court the policeman was convicted and sentenced to pay a fine of ISK 200,000. The case has been appealed to the Supreme Court, but a judgement had not yet been rendered at the time of the compilation of this report. Finally, a man who at the time had been a superintendent at the National Commissioner's Office was indicted for embezzlement and violation in the course of his work through having arranged the delivery of a car belonging to the office for use by his cohabiting partner and having used, without authorisation, a vehicle owned by the office. He was convicted and sentenced to six months' imprisonment, suspended.

39. As was stated in paragraph 125 of Iceland's initial report and paragraph 28 of its second report, a prisoner may lodge a complaint on account of torture on the part of a prison warden to the person in charge of the prison, to the Prison and Probation Administration, or directly to the commissioner of police with jurisdiction in the area where the prison is situated. The Prison and Probation Administration received seven complaints concerning prison warders in the period from 2001-1 October 2005, of which four were submitted in 2001, two in 2002 and one in 2004. Two of the complaints in 2001 and the complaint in 2004 were submitted by the same party. The other two complaints submitted in 2001 were also made by the same party. None of these complaints concerned torture or physical violence by prison warders. One of the complaints received in 2001 concerned two prison warders who the complainant alleged had refused him medical attention, as they were of the opinion that he was feigning illness. The Prison and Probation Administration requested information and explanations from the prison governor and the conclusion reached in the case was that special measures were not necessary. One of the complaints received in 2002 was against the management of the Litla-Hraun Prison for gross negligence and lack of attention in the execution of work when staff failed to intervene with

sufficient speed when another prisoner attacked the complainant. The complainant maintained that the prisoner had made an attempt to attack him shortly beforehand, and had threatened him, without the prison warders' having taken any action to intervene. The prison governor stated in his explanation that the prison warders had not seen any reason to take control of the situation as a decision had been made to transfer the prisoner to another department and he had been reasonably calm and content with this decision. The complaint was also examined by the Ministry of Justice, and the conclusion reached was that, taking into account the fact that the prisoner had been reasonably calm and easy to deal with at the time of the attack, there were not sufficient grounds for launching an investigation, in addition to which a sufficient number of prison warders had been present in order to ensure his transfer.

40. Any person who considers he has been unfairly treated by a government authority is able to submit a complaint to the Parliamentary Ombudsman. In the period from 2001-1 October 2005, the Parliamentary Ombudsman did not receive any complaints directly involving allegations by individuals of torture by civil servants. Each year the Parliamentary Ombudsman receives a certain number of complaints from prisoners in which they criticise facilities in the prisons, the way disciplinary measures are imposed and the conduct of prison warders and other persons working in the prisons, including doctors and health service employees. In many of these cases, complaints do not result in any measures being taken by the Parliamentary Ombudsman, though in some cases he has criticised aspects of the handling of cases by the prison authorities. In 2001 the Parliamentary Ombudsman completed an investigation, undertaken at his own initiative, dealing with certain matters connected with the legal status of convicted prisoners and the handling of their cases by the prison authorities, cf. Case No. 2805/1999. This examination focused in part on the rules concerning disciplinary measures in prisons, their legal basis and the way they were implemented. One of the points that the ombudsman criticised was that there were no general rules on the application and implementation of disciplinary measures against prisoners or rules on procedure in cases where breaches of discipline were suspected. The ombudsman's investigation was carried out during the time when the Prison and Imprisonment Act, No. 48/1988, was still in force. As has been mentioned above, this Act was repealed and replaced by the Application of Punishments Act, No. 49/2005. Section VI of the Act contains provisions on breaches of discipline and disciplinary measures which include provisions defining what constitutes breaches of discipline, the types of disciplinary measures permitted and procedures to be observed before taking a decision to impose disciplinary measures.

41. In 2002 the Parliamentary Ombudsman received a submission complaining about placement in remand at the Litla-Hraun Prison. One of the subjects of the complaint was that no action had been taken on a request for the assistance of a psychiatrist, which was made when the person concerned was placed in isolation, cf. Case No. 3518/2002. It was revealed that prison warders had contacted a psychiatrist in connection with the request and that the psychiatrist said he would contact the prisoner the same day, but due to a mistake nothing came of this. Referring to this case, the Parliamentary Ombudsman wrote the Ministry of Health and Social Security a letter asking, amongst other things, for information on the psychiatric care arrangements regarding prisoners in the Litla-Hraun Prison and pointing out that under Article 68 of the Constitution, Article 3 of the European Convention on Human Rights and also with reference to Article 38 of the European Prison Rules, the government had legal obligations regarding the physical and mental well-being of prisoners. After receiving explanations and information from the government, the ombudsman decided to close the case by writing a letter to the individual



concerned. This stated that as the psychiatrist in question had admitted his mistake, and as the prison authorities and those in charge of health service to prisoners had declared that the prison warders should have taken action when the psychiatrist failed to respond to his request, the ombudsman had decided to take no further action in response to the complaint. In this connection it should be mentioned that in 2003 the Parliamentary Ombudsman began an investigation, at his own initiative, into certain matters concerning the health service for prisoners at the Litla-Hraun Prison, including the assistance provided by a psychiatrist, a physician and a psychologist. The ombudsman has exchanged correspondence with the ministries and institutions involved and has been informed of what has been done to improve arrangements in this area and the plans concerning increases in the number of staff involved in these services. The ombudsman will shortly be deciding whether any further examination of these matters on his part is called for.

42. In 2004 a prisoner at the Litla-Hraun Prison complained about a ruling by the Ministry of Justice confirming a decision by the prison governor to place him in isolation for 78 hours. The prisoner had complained to an employee of the Prison and Probation Administration that he had not received general health treatment in the prison, and said on the same occasion that if nothing was done to improve the situation, or if he was not moved to another prison, he might take his own life or those of other people. In his opinion, the ombudsman examined, amongst other things, the way the prisoner had been placed in isolation, cf. Cases No. 4192 and 4195/2004. He discussed certain provisions of the legislation on health services in the prisons and referred to the government's obligation under the first paragraph of Article 68 of the Constitution and Article 3 of the European Convention on Human Rights to arrange for the application of prison sentences in such a way as to ensure prisoners' physical and mental well-being. The ombudsman stated that in order for a decision by the prison authorities to hold a prisoner in isolation to meet the demands placed on the government in this respect, it was necessary that when isolation is imposed, instructions must be issued on monitoring the prisoner and reassessing his condition during the period of the intended isolation. The ombudsman came to the conclusion that this had not been done by the prison authorities at the Litla-Hraun Prison in this case.

43. It was stated in paragraph 129 of Iceland's initial report and paragraph 30 of its second report that any person who is hospitalised against his will under the Legal Competence Act, No. 71/1997, could refer the decision on involuntary hospitalisation and enforced medical treatment to which he is subjected to the courts. No judgements have been delivered by the Supreme Court in which an individual has alleged that he has been subjected to inhuman or degrading treatment during involuntary hospitalisation. On the other hand, the Supreme Court delivered a judgement on 31 October 2002, following an action brought by an individual who had been committed against his will against a police commissioner and a particular psychiatrist. The plaintiff demanded compensation for non-financial damage for the psychiatrist's actions in having had her arrested on two occasions and committed to a psychiatric ward, and for the actions of the police in having arrested her and transported her there on those occasions. The Supreme Court came to the conclusion that the committal of the individual to a hospital on these occasions had been justified under the second paragraph of Article 19 of the Legal Competence Act, and the defendants were therefore acquitted of the demand for compensation. No complaints have been submitted to the Director-General of Public Health or the special committee that adjudicates in disputes that arise regarding dealings between individuals and employees of the health services in this connection.

### Article 14

44. Iceland's initial report gave a description of the provisions of Icelandic law that provide persons who have suffered torture or other ill-treatment a method of seeking compensation before the courts and ensuring that they will receive a fair hearing and satisfactory compensation. Please refer to that discussion.

45. A judgement was delivered on 8 June 2004 by the European Court of Human Rights in the case of Hilda Hafsteinsdóttir against Iceland. The case concerned six incidents in the period from 31 January 1988-11 January 1991 in which the plaintiff was arrested for drunk and disorderly behaviour and held in the cells of the Reykjavík Police. Four of the incidents involved disturbance in a police station, where the plaintiff had come at her own initiative. A district court had acquitted the State of the plaintiff's demand for compensation for unlawful arrest and imprisonment in its judgement of 11 April 1996, and this was upheld by the Supreme Court on 10 October 1996. The European Court of Human Rights found that Iceland had violated the first paragraph of Article 5 of the European Convention on Human Rights, which prohibits the deprivation of freedom without due grounds in law. The Court found that the law in force at the time of the incidents was not sufficiently clear and accessible to prevent all risk of arbitrary decisions. The Court concluded that the deprivations of freedom on which the case focused were thus not lawful in the sense of the first paragraph of Article 5 of the European Convention on Human Rights. On the other hand, the Court rejected the plaintiff's demand for compensation. Three judges out of seven turned in a dissenting opinion in which Iceland was acquitted of some or all of the charges. It should be stated that since the incidents in this case took place, a new Code of Criminal Procedure, No. 19/1991, and a new Police Act, No. 90/1996, have been enacted; the latter provides for the arrest of a person in circumstances such as those involved in the judgment, and states that a person so arrested may not be held for longer than necessary.

46. There were not many instances of compensation demands on the grounds of inhuman or degrading treatment by civil servants in the period from 2001-1 October 2005. In its judgement of 8 May 2003, the Supreme Court acquitted the State and three police officers of demands presented by an individual for compensation for physical injuries he suffered in a police vehicle that was in motion following his arrest. For security reasons, the policemen had asked the man, who was in a deranged condition due to the consumption of amphetamines, to show them the contents of his pockets. In the judgement it is stated that the man reacted violently to this request, and a violent struggle broke out in the vehicle. The court did not consider that the policemen had shown a lack of caution or used greater force against the man than was necessary to overcome his resistance against their lawful actions, even though the unfortunate result was that he was injured in the course of the struggle. Mention should also be made here of a judgement delivered by the Supreme Court on 19 June 2002, in which the plaintiff demanded, amongst other things, compensation and compensation for non-financial loss on the grounds that he had suffered brutal treatment while in custody. The Supreme Court ruled that Iceland had not demonstrated that the man had received the medical treatment and medication to which he was entitled under Regulation No. 172/1992 on Custody in Remand, until the third day of his detention in custody. It was considered that the man had demonstrated that this might have had a substantial effect on the prognosis of his illness, and he was awarded compensation.

### **Article 15**

47. Reference is made to paragraphs 141-148 in Iceland's initial report and Section (C) of Part III of Iceland's second report. These contain detailed descriptions of the rules of Icelandic law regarding evidence.

### **Article 16**

48. Paragraphs 149-151 of Iceland's initial report state, amongst other things, that Icelandic criminal statutes and rules on protection against misuse of public authority are not limited to torture within the meaning of Article 1 of the Convention, and that the criminal liability of a public official or other person acting in official capacity, consequently extends to any acts on their part involving cruel, inhuman or degrading treatment or punishment. Reference is made to the discussion presented there.

## **II. ADDITIONAL INFORMATION REQUESTED BY THE COMMITTEE**

49. It was recommended in item 9 of the Committee's conclusions and recommendations following Iceland's second report that information on the investigation of cases of suicides in prison, along with any guidelines for suicide prevention adopted in this regard should be included in Iceland's next regular report.

50. Courses on suicide in prison have been held for prison warders and other prison staff. Participants have been made aware of a response schedule applying to suicidal behaviour, including the steps that prison staff should take when a prisoner is considered as being at risk of attempting suicide. A special publication called: "Suicide in Prison: Risk Assessment, Responses and Follow-Up Measures," was produced and distributed to all prison staff. This publication was republished this year and was recently distributed to prison staff. It includes a discussion on how to identify the risk of suicide attempts and how to prevent suicide attempts. It also contains a discussion of a response schedule in connection with serious incidents, including the procedures and responsibilities of the duty officer or director of a shift and the prison governor and psychologist. There are two appendices in the pamphlet: a check-list on measures to be taken in connection with serious incidents and rules on measures to be taken by prison staff in connection with prisoners who are at risk of attempting suicide, etc., dated 2 September 1999.

51. Finally, it should be mentioned that a special committee appointed by the Minister of Justice is examining how further attention can be given to these matters in training and educational activities in the National Police College.

## **III. COMPLIANCE WITH THE COMMITTEE'S CONCLUSIONS AND RECOMMENDATIONS**

### **A. The Committee's recommendation that torture be defined as a specific offence in Icelandic law**

52. Section (A) of Part III of Iceland's second report contained a detailed presentation of Iceland's position on this matter. Amongst other things, the prohibition on torture in Article 68 of the Constitution was described; this was adopted by the Constitution Act, No. 97/1995. An

account was given of the explanatory notes that accompanied the bill and it was stated that in the light of how detailed they were, there could be no doubt as to what was meant by the term “torture,” even though it was not specially defined. It was stated that in the interpretation of law by the courts, the will of the legislature is an important aid, and that the explanations and comments presented with a bill of law were important in this context. It was stated that, in the light of the general principle of Icelandic law that legal provisions are to be interpreted in harmony with international legal obligations, there could be no doubt that the term “torture” would be interpreted in accordance with Article 1 of the Convention if it were to be contested before the courts. It was also stated that even though the term “torture” was not used in the General Penal Code, there was no doubt that conduct involving torture was a punishable act under the Code. Consequently, the Government considered that Icelandic law contained satisfactory provisions applying to torture, both physical and mental, as covered by Article 1 of the Convention.

53. What was stated in Iceland’s second report on this point still stands, and no change has taken place in the position of the Government of Iceland in this respect.

**B. The Committee’s recommendation that the legislation concerning evidence to be adduced in judicial proceedings be brought into line with the provisions of Article 15 of the Convention so as to exclude explicitly any evidence obtained as the result of torture**

54. Reference is made to the discussion under Article 15 in Iceland’s initial report and also to Section (C) of Part III of Iceland’s second report. These presented an account of the basic principles of Icelandic criminal law and the Government’s position that Icelandic legislation on evidence in criminal cases ensures that individuals cannot be convicted on the basis of a confession which is demonstrated as having been obtained by torture.

55. In the light of this material, the Government of Iceland does not consider there to be a need to amend legislation so as to state specifically that evidence obtained by torture is not admissible.

56. It should be mentioned that after Iceland had submitted its third periodic report under the United Nations Covenant on Civil and Political Rights, the Committee on Human Rights requested further information as to whether it was conceivable that information obtained by torture or other cruel, inhuman or degrading treatment or punishment could be used as evidence in court. The additional information submitted by the Government of Iceland included a description of the basic principles of judicial Icelandic law regarding judicial proceedings which was similar to that submitted in Iceland’s initial report. The final comments by the Human Rights Committee did not include any criticism of Icelandic law in this respect.

**C. The Committee's recommendation that doctors who are in contact with persons subjected to any form of arrest, detention or imprisonment, be trained in the field of recognizing the sequelae of torture and the rehabilitation of victims of torture or maltreatment**

57. On 7 November 2005, the Ministry of Health and Social Security sent a letter to the senior physicians of the institutions responsible for health services in the prisons with directions to comply with this recommendation made by the Committee. Specifically, such letters were sent to the South Iceland Health Care Centre, the Lágmúli Primary Health Care Clinic, the Grundarfjörður Primary Health Care Clinic and the Akureyri Primary Health Care Clinic.

**D. The Committee's recommendation that the State Party continue to address issues of inter-prisoner violence by actively monitoring such violence and ensuring that prison staff are trained and able to intervene appropriately**

58. The Prison and Probation Administration sent a letter to all prisoners on 15 September 2004 warning them to desist from all types of victimisation of other prisoners. They were urged to abandon such conduct, and were warned of how such conduct would be dealt with if it were detected. It was stated that violence between prisoners was regarded in a serious light and that it was regarded as important to report incidents of this type. Prison warders were specifically called on to be on the alert and to report all instances of conduct of this type. Prisoners were warned that they could expect disciplinary measures to be taken against them if they indulged in actions of this type and that violations could be the subject of charges submitted to the police. Prisoners were urged to give the matter careful consideration and to desist from all types of ostracism and violence towards their fellow prisoners.

59. At the same time, the Director of the Prison and Probation Administration set rules concerning violence among prisoners; these stated that all prisoners had the right not to suffer victimisation at the hands of other persons inside the prisons. It was stated that the prison system had established methods of dealing with victimisation and ostracism and had a firm policy on such matters, this policy including a zero-tolerance attitude towards this conduct and a commitment to respond to it, with support by the staff to the victims. It was stated that as victimisation and ostracism affected everyone in the prison, it was desirable that the prisoners and the prison staff work together on dealing with the problem. It was also stated that the staff were to be trained to detect, identify and deal with conduct of this type, and if prisoners suffered victimisation or ostracism, or knew of someone who did, they could inform an officer on duty in confidence.

60. A course for prison warders has been held to make it easier for them to identify and deal fairly with conduct aimed at victimisation or ostracism among prisoners.

61. It should also be mentioned that a committee is currently at work on behalf of the Ministry of Justice with the task of reviewing prison warders' training and skills. It is planned that in a new, revised training syllabus, great emphasis will be placed on raising prison warders competence to avoid conflict situations and reduce violence in the prisons.

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