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## European Commission against Racism and Intolerance

# Third report on Iceland

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## **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.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4-5 year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.

The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.

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 propose, if they consider it necessary, amendments to 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 following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 30 June 2006 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.**

### ***Executive summary***

Since the publication of ECRI's second report on Iceland on 8 July 2003, progress has been made in a number of the fields highlighted in that report. In an effort to improve co-ordination and initiative in policy-making concerning immigrants and integration, an Immigration Council has been established to formulate recommendations on policies in these areas, monitor their implementation and ensure provision of services to immigrants. The State has assumed increasing responsibility and ownership in the field of meeting asylum seekers' reception needs. Programmes aimed at promoting mutual integration of "quota" refugees and local communities have continued to be successfully implemented. Some measures have also been initiated to address the situation of disadvantage experienced by young people of immigrant background, notably in the field of education.

However, a number of recommendations made in ECRI's second report have not been implemented, or have only been partially implemented. The legal framework to combat racism and racial discrimination still remains to be strengthened and better implemented. Immigrants still often find themselves in a situation of excessive dependence on their employers, which, coupled with limited knowledge of the Icelandic language and awareness of their rights, exposes them to a higher risk of exploitation and discrimination. The position of immigrant women who are victims of domestic violence continues to be a cause for concern to ECRI. Improvements still remain to be made to the asylum procedure and to certain provisions regulating the residence rights of non-citizens.

In this report, ECRI recommends that the Icelandic authorities take further action in a number of areas. These areas include: the need to strengthen the legal framework against racism and racial discrimination, including through ratification of Protocol No.12 to the European Convention of Human Rights and the adoption of comprehensive primary antidiscrimination provisions; the need to better implement the legal framework in force; the need to reduce exposure of immigrants to exploitation and discrimination by reviewing the system for granting work permits and by providing them with adequate opportunities to learn the Icelandic language and access interpretation services; the need to ensure, including by introducing the necessary changes to the legislation, that foreign women who are victims of domestic violence are not forced to stay in violent relationships to avoid deportation; the need to improve asylum seekers' access to free legal aid and to an impartial and independent appeals mechanism. In this report, ECRI also recommends that the Icelandic authorities build on efforts made since ECRI's second report to develop co-ordinated policies concerning immigrants and integration and that they ensure that the fight against discrimination in all its forms feature prominently within these policies.

## **I. FOLLOW-UP TO ECRI'S SECOND REPORT ON ICELAND**

### **International legal instruments**

1. In its second report, ECRI recommended that Iceland ratify Protocol No. 12 to the European Convention on Human Rights (ECHR), the European Social Charter (Revised), the European Convention on Nationality and the Convention on the Participation of Foreigners in Public Life at Local Level. It also recommended that Iceland take steps to ratify the Framework Convention for the Protection of National Minorities, the European Charter for Regional or Minority Languages, the UNESCO Convention against Discrimination in Education and the European Convention on the Legal Status of Migrant Workers.
2. ECRI is pleased to note that Iceland ratified the European Convention on Nationality in March 2003 and the Convention on the Participation of Foreigners in Public Life at Local Level in February 2004. It welcomes the fact that Iceland has undertaken to apply all the provisions contained in the latter instrument, including its Chapter C, which concerns the attribution of eligibility and voting rights to foreign residents.
3. ECRI regrets, however, that Protocol No. 12 to the ECHR has not yet been ratified. The Icelandic authorities have reported that they do not intend to ratify this instrument before its scope has been clarified through the case law of the European Court of Human Rights. Iceland has also not yet ratified the European Social Charter (Revised). However, ECRI understands that work is underway with a view to possible ratification of this instrument.
4. The Icelandic authorities report that the implications of a possible ratification by Iceland of the Framework Convention for the Protection of National Minorities have been under consideration since ECRI's second report. However, no final conclusions have been reached at the time of writing this report and the Icelandic authorities have therefore no immediate plans to ratify this instrument. There are also reported to be no immediate plans for the ratification of the European Charter for Regional or Minority Languages.
5. Ratification of the European Convention on the Legal Status of Migrant Workers and of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families has not been under consideration since ECRI's second report. ECRI notes that Iceland has not yet ratified the UNESCO Convention against Discrimination in Education. However, the Icelandic authorities have stated that domestic legislation in Iceland is in line with the Convention and ECRI is pleased to note that the authorities intend to ratify this instrument in the very near future.
6. Iceland has not yet ratified the Convention on Cybercrime and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. However, ECRI understands that the steps towards ratification of the Convention are well under way and that work towards possible ratification of its Additional Protocol will start at the end of 2006.

### ***Recommendations:***

7. ECRI strongly recommends that the Icelandic authorities ratify Protocol No. 12 to the ECHR without delay. It reiterates 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 urges the Icelandic authorities to start work with a

view to ratifying the European Convention on the Legal Status of Migrant Workers and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. ECRI furthermore recommends that the Icelandic authorities ratify the Additional Protocol to the Convention on Cybercrime without delay.

8. In its second report, ECRI noted the important role that the incorporation of international human rights instruments into the Icelandic domestic legal system may have in facilitating and clarifying court decisions and in raising general awareness of the importance of human rights instruments. It therefore encouraged the Icelandic authorities to incorporate into domestic legislation other human rights instruments than the ECHR, which had already been incorporated in 1994. ECRI notes that no other human rights instrument has been incorporated into domestic legislation since its second report, and that there are at present no plans to do so.

#### ***Recommendations:***

9. ECRI reiterates its recommendation that the Icelandic authorities consider the incorporation of further human rights instruments into the Icelandic domestic legal system.

### **Constitutional provisions and other basic provisions**

10. In its second report, ECRI encouraged the Icelandic authorities to introduce provisions specifically prohibiting racial discrimination in the Icelandic Constitution. No new provisions have been introduced since then. However, the Icelandic authorities have underlined that Article 65 of the Constitution<sup>1</sup>, which was introduced in 1995, provides adequate protection against discrimination, as illustrated by the many judgments rendered on the basis of this article. They have stressed that, although these judgments have not concerned racial discrimination as such, they have extensively covered discrimination on other grounds.

#### ***Recommendations:***

11. ECRI encourages the Icelandic authorities to strengthen the protection provided by the Icelandic Constitution against racism and racial discrimination. To this end, it draws the attention of the Icelandic authorities to its General Policy Recommendation No.7 on national legislation to combat racism and racial discrimination<sup>2</sup>, 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”<sup>3</sup>.

### **- *Eligibility and voting rights for non-citizens***

12. Since 2002, non-citizens with five years of residence in Iceland have been granted eligibility and voting rights in municipal elections<sup>4</sup>. Information on the extent to which the persons so entitled have exercised this right in practice at the

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<sup>1</sup> This Article provides 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. Man and women shall enjoy equal rights in all respects”.

<sup>2</sup> CRI (2003) 8: ECRI General Policy Recommendation N°7 on national legislation to combat racism and racial discrimination, European Commission against Racism and Intolerance, Council of Europe, February 2003.

<sup>3</sup> ECRI General Policy Recommendation N°7, paragraphs 2-3 (and paragraphs 10-11 of the Explanatory Memorandum).

<sup>4</sup> Nordic country nationals are granted eligibility and voting rights in municipal elections after three years of residence.

municipal elections of 2002 is not available. However, the Icelandic authorities have informed ECRI that they have taken measures to raise awareness among non-citizens of these rights, notably in view of the Municipal elections of May 2006.

### ***Recommendations:***

13. ECRI encourages 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.

### **Criminal law provisions**

14. In its second report, ECRI noted that there had been virtually no cases of the application of the criminal law provisions in force in Iceland against racism and racial discrimination<sup>5</sup>. ECRI recommended that the Icelandic authorities examine the reasons behind this situation and take the necessary steps to improve the implementation of these provisions.
15. The criminal law provisions in force against racism and racial discrimination, and notably those that prohibit racial discrimination (Section 180 of the Criminal Code) and incitement to racial hatred (Section 233a of the Criminal Code) have not been applied since ECRI's second report. However, this situation still appears to be at variance with reported instances of racial discrimination, for example in access to certain establishments of the entertainment industry<sup>6</sup>, or racist incidents, such as racist insults or harassment. The Icelandic authorities have stressed that these cases are not reported by victims to the criminal justice authorities. For instance, the police officer who, since 2001, is entrusted with special responsibilities to deal with immigrants, has received a certain number of complaints from immigrants, but never alleging a breach of the provisions against racism and racial discrimination<sup>7</sup>. The Icelandic authorities have also stressed that the police are trained on the implementation of these provisions, notably at the Police Academy. It does not appear to ECRI, however, that comprehensive efforts have been made since ECRI's second report to better research the reasons behind the apparent unwillingness of victims to report cases, including the role that the actors of the criminal justice system may play in this respect, nor to raise awareness among the general public and minority groups of the legislation in force against racism and racial discrimination. As already mentioned in ECRI's second report and highlighted below<sup>8</sup>, the lack of comprehensive civil and administrative provisions against discrimination also play, in ECRI's opinion, a central role in limiting access to justice for victims of racial discrimination in Iceland.
16. In its second report, ECRI also recommended that the Icelandic authorities consider introducing further criminal law provisions in the areas covered by its

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<sup>5</sup> Section 180 of the Criminal Code punishes with fines or imprisonment of up to six months the act of denying a person goods and services in business transactions or service activities, or access to any place intended for general public use, or any other public place, on the grounds of his or her colour, race or national origin, religion or sexual orientation, or other comparable considerations. Section 233a of the Criminal Code provides that any person that attacks another person by publicly ridiculing, slandering, insulting, threatening them on the basis of their nationality, colour, race, religion or sexual orientation shall be liable to a fine or imprisonment for a term of up to two years. Article 125 stipulates that any person who publicly ridicules or dishonours the religion or worship of a lawful religious community in Iceland shall be liable to a fine or imprisonment of up to three months.

<sup>6</sup> See below, Access to public services – Access to other services.

<sup>7</sup> See below, Conduct of law enforcement officials.

<sup>8</sup> See Civil and administrative law provisions.

mandate. These included provisions that expressly consider the racist motivation of an offence as a specific aggravating circumstance, but also provisions aimed at countering certain forms of racist expression. No consideration has been given since ECRI's second report to the introduction of any such provisions. The Icelandic authorities have stated that the legal review which will be carried out with a view to ratifying the Additional Protocol to the Convention on Cybercrime may provide the opportunity to do so.

### ***Recommendations:***

17. ECRI recommends that the Icelandic authorities take steps to improve the implementation of the criminal law provisions in force against racism and racial discrimination. To this end, it recommends 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.
18. ECRI furthermore recommends 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 actively and thoroughly counter all manifestations of these phenomena.
19. ECRI strongly recommends that the Icelandic authorities introduce a criminal law provision that expressly considers the racist motivation of an offence as a specific aggravating circumstance. More generally, ECRI recommends that the Icelandic authorities keep the criminal law provisions in force against racism and racial discrimination under review and fine-tune them as necessary. To this end, ECRI draws the attention of the Icelandic authorities to its General Policy Recommendation No.7, and particularly to the recommendations concerning the criminalisation of certain forms of racist expression<sup>9</sup> and the prohibition of racist organisations<sup>10</sup>.

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

20. In its second report, ECRI noted that although scattered civil and administrative provisions covering discrimination in certain fields existed<sup>11</sup>, there was no comprehensive civil and administrative body of antidiscrimination legislation in Iceland covering all fields of life, from employment to education, housing, health, goods and services intended for the public and public places, exercise of economic activity and public services etc. ECRI therefore recommended that such legislation be introduced and that ECRI's General Policy Recommendation No.7 be used as reference in this process.
21. There is still no comprehensive body of civil and administrative antidiscrimination legislation in Iceland today. The Icelandic authorities have underlined that the

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<sup>9</sup> ECRI General Policy Recommendation N°7, paragraph 18 a-f (and paragraphs 38-42 of the Explanatory Memorandum).

<sup>10</sup> ECRI General Policy Recommendation N°7, paragraph 18 g (and paragraph 43 of the Explanatory Memorandum).

<sup>11</sup> Section 11 of the Administrative Procedures Act, No. 37/1993, states that administrative authorities shall ensure legal harmony and equality in taking their decisions, and that any discrimination between individual parties based on views relating to their sex, race, colour, national origin, religion, political opinion, social status, family origins or any other similar considerations, is prohibited. Section 1 of the Rights of Patients Act, No. 74/1997 provides that any discrimination between patients on grounds of sex, religion, opinion, ethnic origin, race, colour, property, family origins or other status is prohibited. Other provisions dealing with discrimination exist in different pieces of legislation, such as the Postal Services Act, the Broadcasting Act, and the Data Protection Act.

protection provided by Article 65 of the Constitution<sup>12</sup> against discrimination is effective and therefore renders the adoption of such legislation somewhat less necessary. They have also stated however, that although Iceland is not a member of the European Union (EU), the two Directives of the EU on equal treatment<sup>13</sup> will be examined with a view to identifying the possible need for changes to domestic legislation. Thus, the newly-established Immigration Council<sup>14</sup> will consider the areas covered by Directive 2000/43/EC, while a Commission recently established under the auspices of the Ministry of Social Affairs will examine the aspects related to employment and occupation covered by Directive 2000/78/EC.

### **Recommendations:**

22. ECRI urges the Icelandic authorities to adopt a body of civil and administrative antidiscrimination provisions that would cover racial discrimination across all fields of life and provide victims with effective means of redress. It recommends that, in examining the different options, the need to grant the highest level of protection to victims of racial discrimination is taken into consideration. To this end, ECRI strongly recommends that the Icelandic authorities take into account its General Policy Recommendation No. 7, including in terms of the areas to which anti-discrimination legislation should apply<sup>15</sup>, the grounds of discrimination in respect of which protection should be afforded,<sup>16</sup> and the need to place public authorities under a duty to promote equality and prevent discrimination<sup>17</sup>.

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

23. In its second report, ECRI recommended that Iceland establish a specialised body to combat racism and racial discrimination. Such a body, to be established in the framework of the adoption of comprehensive civil and administrative antidiscrimination legislation, should be competent, *inter alia*, for assisting victims of racism and racial discrimination in pursuing their complaints under such legislation. No such body has been established in Iceland since ECRI's second report. However, ECRI understands that this question might be examined as part of the review that, as mentioned above<sup>18</sup>, will be carried out in the areas covered by the EU Directives on equal treatment.
24. The situation as concerns access to specialised assistance in individual cases of racism or racial discrimination in Iceland is therefore at present still as described in ECRI's second report: although the Parliamentary Ombudsman is mandated, *inter alia*, to ensure that the principle of equality is respected by the public authorities, it does not have a specific mandate on racism and racial discrimination. As was the case at the time of ECRI's second report, the Parliamentary Ombudsman receives complaints from members of immigrant communities. However, these complaints have continued to concern areas such

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<sup>12</sup> See above, Constitutional provisions and other basic provisions.

<sup>13</sup> Directive 2000/43/EC of the Council of the European Union implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Directive 2000/78/EC of the Council of the European Union establishing a general framework for equal treatment in employment and occupation.

<sup>14</sup> See below, Section II, The situation of immigrants.

<sup>15</sup> ECRI General Policy Recommendation N°7, paragraph 7 (and paragraphs 17-26 of the Explanatory Memorandum).

<sup>16</sup> ECRI General Policy Recommendation N°7, paragraphs 1b-c and 4 (and paragraph 6 of the Explanatory Memorandum).

<sup>17</sup> ECRI General Policy Recommendation N°7, paragraph 8 (and paragraph 27 of the Explanatory Memorandum)

<sup>18</sup> See above, Civil and administrative law provisions.

as immigration law, benefits and social protection, and have never focused directly on racism or racial discrimination.

***Recommendations:***

25. ECRI strongly recommends that the Icelandic authorities establish a specialised body to combat racism and racial discrimination at national level. It recommends that, in so doing, they duly take into account the guidance provided by ECRI in its General Policy Recommendations No. 2<sup>19</sup> and No. 7 concerning the status, role and functions that should be attributed to these bodies. In particular, ECRI draws the attention of the Icelandic authorities to the need for such a body to be independent and accountable<sup>20</sup> and to the need for the following functions and powers to be included in its competence: assistance to victims; investigation powers; the right to initiate and participate in court proceedings; monitoring legislation and advice to legislative and executive authorities; awareness-raising of issues of racism and racial discrimination among society; promotion of policies and practices to ensure equal treatment<sup>21</sup>.
26. In its second report, ECRI noted the important role played by the Intercultural Centre in Reykjavik (a public interest company owned by the Reykjavik Section of the Iceland Red Cross with significant financing from a number of Municipalities), the Westfjords Multicultural and Information Centre (financed and operated by the State budget) and the Intercultural Centre in Akureyri (financed and operated by the Municipality) in addressing immigrants' needs. ECRI notes that, since that report, these centres have continued to provide valuable services to members of immigrant communities, including advocacy, counselling, translation and interpretation services and language courses, and also offered a forum for dialogue and exchange between immigrant and non-immigrant communities. These centres have also carried out research concerning the situation of local immigrant communities and provided valuable advice to the Icelandic authorities concerning the problems and needs of these communities.
27. In a welcome development, an Immigration Council has also been established in Iceland in 2005. ECRI deals with this issue in Section II of this report.

***Recommendations:***

28. ECRI encourages 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 encourages the Icelandic authorities to thoroughly consult these centres 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.
29. ECRI notes that, since its last report, the Icelandic authorities have introduced changes as concerns the funding of independent organisations active in the field of protecting and promoting human rights in Iceland. Essentially, from 2005, no such organisation is funded through earmarked appropriations from the national budget approved by the Parliament. Human rights organisations can only receive funding from the Ministry of Justice, on the basis of project proposals submitted to this Ministry. ECRI notes reports according to which, in practice, these changes have resulted in a drastic cut in funding in comparison with the past and

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<sup>19</sup> CRI (97) 36: ECRI General Policy Recommendation n° 2: Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.

<sup>20</sup> ECRI General Policy Recommendation N° 2, Principle 5

<sup>21</sup> ECRI General Policy Recommendation N°7, paragraph 24 (and paragraphs 50-55 of the Explanatory Memorandum)

affected the quality of human rights work carried out by these organisations. It notes, for instance, that, in 2005, the Icelandic Human Rights Centre has received funds amounting to approximately one third of the funds previously allocated to it and that none of the projects for which funds were secured from the Ministry of Justice concerned monitoring activities. ECRI is concerned at the impact that this situation may have on human rights work aimed at combating racism and racial discrimination.

***Recommendations:***

30. ECRI strongly recommends 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.

**Education and awareness-raising**

31. In its second report, ECRI recommended that the Icelandic authorities take further action to improve the teaching of human rights and the implementation of intercultural education in schools, including by providing teachers with better training in these subject areas and ensuring availability of adequate teaching materials.
32. As already noted in ECRI's second report, human rights are taught in Icelandic schools as part of a compulsory subject, "Life Skills". It has been reported to ECRI however, that in practice, the extent to which human rights are covered within this subject varies greatly from one school to another, partly because the curriculum is not specific enough on this aspect. ECRI notes that, as part of a general review of the curriculum guidelines for all subjects, the curriculum guidelines for "Life Skills" are currently being revised. As concerns teaching materials, ECRI notes that manuals providing teachers with guidance on how to teach human rights are available. However, only in a few cases such material appears to have been in use in schools.
33. The Icelandic authorities report that universities offer undergraduate and graduate courses in intercultural education and diversity issues. They also report that they have funded a number of initiatives in the field of intercultural education and that intercultural education has been implemented in some schools as an official policy, although ECRI notes that the number of such schools is still limited. ECRI has furthermore been informed that surveys carried out among immigrants indicate that an important amount of people in this group consider that the school curriculum does not sufficiently reflect diversity, including cultural and religious diversity.
34. Civil society organisations have also highlighted that better human rights and intercultural school education appear to be all the more necessary in Iceland, as some research seems to point to a rather negative attitude among the younger generation towards the members of immigrant communities.

***Recommendations:***

35. ECRI recommends that the Icelandic authorities strengthen their efforts to provide human rights education in schools with special emphasis on equality and respect for difference. To this end, it recommends in particular that the importance of human rights be clearly and adequately reflected in the school curriculum. In the long term however, ECRI considers that the Icelandic authorities should consider making human rights a compulsory subject at both primary and secondary level.

36. ECRI recommends that the Icelandic authorities strengthen their efforts to ensure that intercultural education be effectively implemented in practice as a school policy in all schools.
37. ECRI recommends that as part of their efforts to improve human rights and intercultural education in schools, the Icelandic authorities pay particular attention to teacher training and to ensuring that existing teacher training material is actually used in practice. ECRI encourages the Icelandic authorities to work closely with universities to ensure adequate provision of intercultural education and diversity issues.
38. ECRI is pleased to note that a number of research projects, including surveys, have been carried out in recent years concerning both the attitudes of different segments of the Icelandic population towards members of immigrant communities and immigrants' experience of and attitude towards Icelandic society. However, it has been highlighted that some important areas have not yet been the subject of in-depth research. ECRI considers for instance, that the incidence of direct and indirect as well as structural racial discrimination still needs to be adequately investigated in Iceland. It has also been highlighted that so far, the impact of existing research on policy decisions regarding immigrants has been very limited.

#### ***Recommendations:***

39. ECRI recommends that the Icelandic authorities support research aimed at gaining a better idea of the real situation of minority groups in Iceland and on attitudes of the majority population towards them. It recommends that such research include a strong focus on discrimination including direct, indirect and structural discrimination. ECRI furthermore recommends that the Icelandic authorities ensure that research is used in practice to inform policy decisions targeting minority groups.

#### **Reception and status of non-citizens**

40. Since ECRI's second report, the 2002 Act on Foreigners has been supplemented by regulations in 2003<sup>22</sup> and amended in 2004<sup>23</sup>. While improvements were introduced in certain areas, civil society organisations have stressed that the overall trend since ECRI's second report in areas connected with immigration has been towards introducing restrictive measures. ECRI examines in more depth some of the provisions that raise its concern in different parts of this report<sup>24</sup>. However, ECRI would like to stress here that while it notes that the practice of the Icelandic authorities in a number of areas appears to limit at present the negative impact of certain provisions on the enjoyment of human rights by non-citizens, it remains concerned at the possible consequences that a change of practice in these areas might entail.

#### **- "Quota" refugees**

41. In its second report, ECRI noted that Iceland had been receiving "quota" refugees, whom it helped to resettle in Iceland through programmes involving different actors, including the Red Cross, other humanitarian organisations and municipalities. These programmes covered a wide range of areas, including provision of housing, financial support, assistance in finding employment, language courses, schooling of children, healthcare and psychological support as

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<sup>22</sup> Regulation No. 53/2003 on Foreigners.

<sup>23</sup> Act No. 20/2004.

<sup>24</sup> Reception and status of non-citizens - Asylum seekers; The situation of Immigrants

well as measures to favour mutual integration between the refugees and the local communities. ECRI encouraged the Icelandic authorities to develop these programmes further. It also recommended that the reception of “quota” refugees be formalised in legislation, including in order to avoid annual variations in its implementation.

42. ECRI is pleased to note that the programmes for the integration of “quota” refugees have continued. It also welcomes the fact that there continues to be general agreement in Iceland concerning the effectiveness of these programmes, although it has been highlighted that there are areas such as access to financial support measures for university education, where further improvements could be made. ECRI notes however, that reception of quota refugees has not been given a stronger legal basis -- the Icelandic authorities report that this question is currently being examined. As a result, since ECRI’s second report, decisions on the number of accepted refugees have continued to vary considerably. Thus, 23 refugees were accepted in 2003, none in 2004 and 30 in 2005. ECRI also notes that in 2005, a Committee for Refugees and Asylum Seekers composed of representatives of relevant Ministries and of the Red Cross has replaced the Refugee Council, which was in place at the time of ECRI’s second report. The Committee, which is in charge of the reception of “quota” refugees, will report to the newly-established Immigration Council<sup>25</sup>.

***Recommendations:***

43. ECRI reiterates 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 encourages the Icelandic authorities to further develop, 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 recommends that the Icelandic authorities address any shortcomings in the refugees’ access to financial support measures for university education.

***- Asylum seekers***

44. In its second report, ECRI noted that there had been an increase in asylum applications in previous years. Only one person had been granted refugee status, although other persons had been granted leave to stay in Iceland on humanitarian grounds. Although still modest, ECRI notes that figures of asylum applications are now higher than those (24 in 2000 and 53 in 2001) registered in ECRI’s second report. Thus, for instance, 117 applications were received in 2002, 80 in 2003, 76 in 2004 and 87 in 2005. ECRI notes that none of these applicants were granted refugee status and that 10 persons were granted humanitarian status in the period 2002-2004. The Icelandic authorities have underlined that these low recognition rates reflect the nature of the applications received. However, many organisations have expressed concern that the low rates of recognition may also reflect a practice of granting humanitarian status as opposed to refugee status, as well as the need for improvement in the quality of first instance decision-making.

***Recommendations:***

45. ECRI recommends that the Icelandic authorities carry out research on the low rates of recognition of refugee status. It recommends that they ensure that all persons entitled to refugee status actually secure this status. To this end, it

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<sup>25</sup> See below, The situation of immigrants.

recommends that further efforts be made to improve the quality of first instance decision-making.

46. Noting that appeals against first instance asylum decisions made by the Directorate of Immigration were only possible before the Ministry of Justice, in its second report ECRI recommended that the Icelandic authorities introduce an independent mechanism to deal with asylum appeals. There have been no developments in this direction since that report. Asylum seekers who appeal against an asylum decision or a deportation order can still only apply to the Ministry of Justice -- ECRI is aware of no cases where this has been done successfully --, whose decisions are subject only to a limited court review on matters of procedure rather than substance. In addition, ECRI notes that the lodging of an appeal against an asylum decision does not, as a rule, suspend the execution of the deportation order and that therefore many rejected asylum seekers are rather quickly deported prior to a final decision. The authorities have stressed that the Ministry of Justice can suspend the execution of the deportation order if it considers that the circumstances of the case warrants such a measure. However, ECRI is not aware of cases where this possibility has been used.
47. In its second report, ECRI recommended that the Icelandic authorities provide asylum seekers with free legal aid from the outset of the asylum process. The situation in this area is still as described in ECRI's second report. Asylum seekers are entitled to five hours of free legal aid in appeals cases. However, in first instance asylum proceedings no free legal aid is available to asylum seekers, although they may be assisted in some cases by the Red Cross and hire a lawyer at their own expense.

#### ***Recommendations:***

48. ECRI recommends that the Icelandic authorities ensure that asylum applicants may appeal against asylum decisions before an independent and impartial judicial mechanism empowered to consider the merits of the case.
49. ECRI recommends that the Icelandic authorities provide that appeals against asylum decision have an automatic suspensive effect on the decision to deport.
50. ECRI reiterates its recommendation that the Icelandic authorities ensure that free legal aid is available to asylum seekers from the outset of the asylum proceedings.
51. In its second report, ECRI addressed the issue of the role played by police and customs officials in granting admission to asylum seekers at the border. ECRI is pleased to note that the 2002 Act on Foreigners clarified the division of labour between the police and the Immigration authorities and that the police no longer decides on the admissibility of asylum claims. In its second report, ECRI recommended that border police officials receive in-depth training in asylum issues and on how to receive non-citizens arriving in Iceland. ECRI notes that since its second report, efforts have been made, in co-operation with civil society organisations and UNHCR, to provide training in these areas to border police officials. It also notes that, since its last report, asylum applications are increasingly filed at police stations within the country.

52. In its second report, ECRI recommended that the Icelandic authorities reconsider the provision contained in Section 45 of the Act on Foreigners, which excluded those foreigners who present a danger to national security from the protection against being returned to places where they would be at risk of serious human rights violations. ECRI also expressed concern at Section 46, which provides that asylum may be refused on grounds of important national interests. ECRI notes that both provisions are still in place, although the Icelandic authorities have reported that they have never been applied since ECRI's second report.

**Recommendations:**

53. ECRI recommends that the Icelandic authorities strengthen their efforts to provide border control officials with good quality training on asylum issues, including clear guidelines on the information that should be transmitted to asylum seekers concerning their rights and the way in which applications should be received and dealt with. ECRI furthermore encourages the Icelandic authorities to extend such training initiatives, as necessary, to police in service within the country.
54. ECRI recommends that the Icelandic authorities ensure that the principle of *non-refoulement* is thoroughly respected in all cases. To this end, it reiterates its recommendation that the Icelandic authorities review Sections 45 and 46 of the Act on Foreigners.
55. In its second report, ECRI welcomed the central role played by the Icelandic Red Cross in providing reception services for asylum seekers. It noted however, that provision of care was the responsibility of the State, which should take care of all aspects of reception, including housing, social care and clear rules on the access of children to education. ECRI notes that in early 2004, the Icelandic authorities concluded an agreement with the Municipality of Reykjanesbaer to set up a reception centre for asylum seekers, where asylum seekers are provided with daily necessities, a small weekly allowance and access to municipal services. The Red Cross plays a monitoring role on this new reception system of asylum seekers.
56. ECRI welcomes the fact that the public authorities have assumed increasing responsibility and ownership over the reception of asylum seekers in Iceland, although it notes that the new arrangements are based on an agreement between the central authorities and the municipality, and not embedded in law. ECRI notes that asylum seeker children attend the local schools on the basis of an informal arrangement. It has been reported to ECRI that children do not attend school during a three-month period after arrival. The authorities have explained that during this period the screening procedure for possible return of the asylum seekers to transit countries is carried out and that it is for this reason that children do not attend school during that time. It has furthermore been reported to ECRI that the asylum centre is quite isolated and that the weekly allowance is not enough to cover transportation costs to the capital city, although travel for administrative and health reasons is provided free of cost. ECRI notes that asylum seekers may be granted a work permit, but only if their identity is fully established, a condition that very few of them fulfil – in 2005, such a permit has been granted in one case. Finally, ECRI notes that the Committee for Refugees and Asylum Seekers set up in 2005<sup>26</sup> has not been mandated to deal with the reception and integration of asylum seekers.

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<sup>26</sup> See above, Reception and status of non-citizens – “Quota” refugees

### ***Recommendations:***

57. ECRI encourages the Icelandic authorities in their efforts to assume primary responsibility for the reception of asylum seekers. It recommends that they embed the new reception arrangements in legislation. ECRI reiterates its recommendation that the Icelandic authorities set out clear rules on the access of asylum seeker children to education, to ensure that these children are sent to school as soon as possible, and to ensure that, in taking decisions in these matters, the best interests of the child prevail in all cases. ECRI encourages the Icelandic authorities to take steps to alleviate the relative isolation of asylum seekers in the new centre. It furthermore encourages the Icelandic authorities to further extend the possibilities for asylum seekers to work pending the examination of their claims. Finally, ECRI encourages the Icelandic authorities to ensure that the reception needs of asylum seekers also benefit from the experience and leadership that will be developed within the Committee for Refugees and Asylum Seekers.

#### **- *Unaccompanied minors***

58. Although the issue of unaccompanied foreign minors is reported to have virtually never arisen in practice in Iceland, ECRI notes that there are no specific provisions to safeguard the rights of such minors, including minors seeking asylum. ECRI notes that a working group established in December 2003 under the auspices of the Ministry of Justice has produced a report where the procedures to follow in case an unaccompanied foreign minor is found and the responsibilities of the different administrations are clearly explained. ECRI understands that the necessary budgetary appropriations as well as the regulations from the relevant administrations to implement the plan recommended in that report are still pending.

### ***Recommendations:***

59. ECRI recommends that the Icelandic authorities establish safeguards for the protection of unaccompanied foreign minors.

### **Access to public services**

#### **- *Access to education***

60. As already noted in ECRI's second report, both the general curriculum for all pupils in compulsory education and legislation for primary education provide for specialised education in Icelandic as a second language to be dispensed to non-Icelandic mother tongue children. ECRI has received consistent reports however, according to which there is not enough teaching of Icelandic as a second language in schools at present to meet the needs. While this applies to all levels of compulsory education, ECRI notes that lack of such teaching is particularly severe at lower secondary level. The Icelandic authorities report that the ongoing reform of the school curriculum guidelines increases the opportunities for non-Icelandic mother tongue pupils to learn Icelandic in schools. For instance, compulsory and upper secondary schools are required by the draft curriculum guidelines for Icelandic as a second language to make special reception plans for non-Icelandic mother tongue pupils. The Icelandic authorities report that, as part of this reform, teaching of pupils' mother tongues other than Icelandic needs to be encouraged. In this respect, they underline that mother tongue education is increasingly being evaluated as credits in upper-secondary schools and as a part of the curriculum in compulsory schools.
61. In light of research which seemed to indicate that children of immigrant background were not performing as well as Icelandic children in schools, with

high drop-out rates at secondary level, in its second report ECRI recommended that further research be carried out in this area and that strategies be devised to address any problems found. The Icelandic authorities have confirmed the disproportionately high drop out rates of students of immigrant background in secondary education. ECRI notes with interest that in order to address this problem, the Icelandic authorities have recently initiated a three-year project (*“Take off to the Future”*) involving different ministries, organisations and service providers and targeting young people of Vietnamese origin, whose aim is to encourage these youngsters to pursue education but also to provide them with the necessary tools to play an active role in society more generally. While the project has been targeted at this specific community as pilot, the Icelandic authorities have stated their intention, depending on the final assessment of the results, to extend it to other pupils who experience particular situations of disadvantage in education.

62. As already noted in ECRI’s second report, pupils in Iceland are required to follow classes in “Christianity, Ethics and Religious Studies”, unless their parents ask for them to be exempted. In its second report, ECRI recommended that the Icelandic authorities ensure that children who do not wish to attend these classes are provided with alternative classes and that all children are given the opportunity to learn about different religions and faiths. The Icelandic authorities have reported to ECRI that, since then, they have commissioned research on the content of this subject and on procedures for exemption. They point out that the conclusion of this research is that the situation in Iceland in these areas is similar to that existing in other Nordic countries. The Icelandic authorities have also underlined that the draft curriculum guidelines for “Christianity, Ethics and Religious Studies” require more teaching in religions other than Christianity to be imparted in schools. However, ECRI notes reports according to which, although teachers of this subject are already at present required to teach about other religions, in practice classes are in many cases of a Christian confessional nature.

#### ***Recommendations:***

63. ECRI recommends 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 encourages the Icelandic authorities to improve availability of teaching of pupils’ mother tongues other than Icelandic.
64. ECRI encourages the Icelandic authorities in their efforts to address the situation of disadvantage of secondary students of immigrant background, including their disproportionately high drop out rates. It encourages the authorities to monitor the effectiveness of current measures undertaken and to extend good practice developed in this area. ECRI recommends 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.
65. ECRI reiterates 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 stresses 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.

#### **- Access to other services**

66. Civil society organisations report that since ECRI’s second report, there have been a number of instances where persons of immigrant background were

refused entry to public places such as bars and night clubs. As mentioned above, however, these cases appear not to have been brought to the attention of the criminal justice authorities.

67. In its second report, ECRI encouraged the Icelandic authorities to train officials and providers of services who deal on a daily basis with the needs and requests of immigrants on issues of diversity. Although this type of training is reportedly provided, for instance, to Reykjavik Municipality's civil servants, ECRI notes that many civil servants who are in daily contact with immigrants do not at present receive specific training on issues of diversity.

#### ***Recommendations:***

68. ECRI recommends 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 recommends that the Icelandic authorities take swift steps to address any such practices, including the steps recommended above in the field of legislation.
69. ECRI encourages the Icelandic authorities 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.

### **Employment**

70. ECRI deals with the employment situation of immigrants in Section II of this report

### **Vulnerable groups**

#### **- *Immigrant women***

71. In its second report, ECRI recommended that the Icelandic authorities 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. A particular problem, already highlighted in that report and which persists today – at the time of writing as many as 40% of women staying at the women's shelter in Reykjavik are immigrant women – concerns the situation of immigrant women who are victims of domestic violence. In this connection, ECRI notes that at present, if a foreign woman with a residence permit on grounds of marriage or cohabitation leaves her partner within three years of being granted the permit, she loses her residence rights. As a result, many women are reported to have endured violent relationships in order to avoid being deported. The Icelandic authorities have reported that they are aware of this situation and that in practice, they renew the residence permits of foreign women who are victims of domestic violence. It has been reported to ECRI however, that the women concerned are not necessarily aware of this practice and that in any event, the letter of the law has a powerful deterrent effect in terms of leaving a violent relationship. ECRI understands that, since ECRI's last report, amendments to the provisions of the Act on Foreigners which regulate the granting of residence permits in these cases have been considered but have not been adopted.

#### ***Recommendations:***

72. ECRI encourages 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 recommends 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.

- **Muslims**

73. The climate of opinion regarding Muslims in Iceland is reported to have somewhat deteriorated since ECRI's last report, particularly as a result of the association sometimes made between Muslims and fundamentalism or terrorism. Negative stereotypes and generalisations concerning Muslims are reported to be found in the media, notably private television and radio channels, but also in some cases in political and public debate. A few instances of physical or verbal harassment of Muslims have also been reported to ECRI. More generally, ECRI's attention has been drawn to surveys which seem to point to a certain mistrust of the general public towards Muslims.
74. ECRI has furthermore been informed that it has not yet been possible for the Muslim community to build a Mosque and cultural centre in Reykjavik, although an application for land and building permission has been pending since 1999. The Icelandic authorities have reported that the land has been assigned and that the application for building permission is to be examined by the Municipality of Reykjavik.

**Recommendations:**

75. ECRI recommends that the Icelandic authorities take steps to monitor and address any manifestations of racism and discrimination towards Muslims. In this respect, it draws the attention of the Icelandic authorities to its General Policy Recommendation No. 5<sup>27</sup>, which proposes a range of legislative and policy measures governments can take to this end.
76. ECRI recommends that the Icelandic authorities ensure that the application for the building of a Mosque and Muslim cultural centre be examined without further delay. It encourages the Icelandic authorities to ensure, in close consultation with the concerned community, that Muslims enjoy adequate premises to practice their religion.

**Antisemitism**

77. There are no formally organised Jewish communities in Iceland. The Icelandic authorities have reported to ECRI that they are not aware of any manifestations of antisemitism having occurred since ECRI's second report. It has been reported to ECRI, however, that antisemitic statements were made publicly by a prominent figure in 2005 and that no charges have been brought against their author.

**Recommendations:**

78. ECRI recommends that the Icelandic authorities monitor the situation as concerns manifestations of antisemitism and react to any manifestations that may occur. It draws the attention of the Icelandic authorities to its General Policy Recommendation No. 9 on the fight against antisemitism<sup>28</sup>, which contains practical guidance on measures governments can take to this end.

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<sup>27</sup> CRI (2000) 21: ECRI General Policy Recommendation n° 5: Combating intolerance and discrimination against Muslims, European Commission against Racism and Intolerance, Council of Europe, April 2000

<sup>28</sup> CRI (2004) 37: ECRI General Policy Recommendation N°9 on the fight against antisemitism, European Commission against Racism and Intolerance, Council of Europe, June 2004

## Media

79. As noted in other parts of this report<sup>29</sup>, stereotyping and stigmatising remarks on members of minority groups are reported to be made sometimes on the broadcast private media. On some occasions, material portraying immigrants in a negative or stereotypical way has also appeared in the press. ECRI notes that codes of self-regulation of journalists exist in Iceland and that on a few occasions they have been used to address these instances.

### ***Recommendations:***

80. ECRI encourages 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 recommends 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.

## Conduct of law enforcement officials

81. In its second report, ECRI recommended that law enforcement officials receive adequate training aimed at raising their awareness of human rights, including non-discrimination, and their sensitivity to cultural diversity in dealing with people of different backgrounds. It welcomed the nomination of a police contact person with responsibility for dealing with immigrants and hoped that this initiative would encourage victims to come forward with cases. ECRI furthermore encouraged the Icelandic authorities to make efforts to recruit persons of immigrant background in the police.
82. Since ECRI's second report, the police contact person has been approached by immigrants, including women victims of domestic violence, on a number of occasions. As mentioned above<sup>30</sup> however, such cases never concerned instances of racism or racial discrimination. Civil society organisations have highlighted that the position and role of the contact person is not known well enough. More generally, it has been noted that, while general training on equality and non-discrimination is provided to police officers, specific training aimed at raising their cultural sensitivity in a practical way still needs to be promoted. No consideration appears to have been given by the Icelandic authorities since ECRI's second report to the issue of promoting better representation of persons of immigrant background within the police ranks.
83. As concerns complaints against alleged misconduct of police officers, the Icelandic authorities report that none of the 76 complaints submitted in the period 2002-2004 concerned racism or racial discrimination.

### ***Recommendations:***

84. ECRI recommends that the Icelandic authorities strengthen their efforts to provide law enforcement officials with good quality training in human rights and non-discrimination. It recommends in particular that they strengthen provision of specific training to raise their sensitivity to cultural diversity in dealing with people of different backgrounds. ECRI encourages the Icelandic authorities to further publicise the position and role of the police contact person.

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<sup>29</sup> See above, Vulnerable groups – Muslims.

<sup>30</sup> Criminal law provisions.

85. ECRI invites 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.
86. ECRI reiterates its recommendation that the Icelandic authorities take steps to promote better representation of persons of immigrant background within the police ranks.

### **Monitoring the situation**

87. In its second report, ECRI recommended that the Icelandic authorities consider collecting data which would enable them to monitor the position of minority groups in areas such as education, employment, etc. There have been no significant developments in this area since ECRI's second report. As was the case at that time, data is collected in Iceland on nationality and religion. The Icelandic authorities have reported that statistical information on the ethnic origin of the immigrant population is also available. However, it does not appear to ECRI that this information is presently being used to monitor the position of minority groups and identify possible patterns of discrimination or disadvantage in certain areas. However, the Icelandic authorities have reported to ECRI that although still at an initial stage, the debate on data collection for monitoring purposes has started within Icelandic public institutions. ECRI also notes that one of the tasks of the newly-established Immigration Council, is to gather statistical information on immigrants in Iceland<sup>31</sup>.

### ***Recommendations:***

88. ECRI recommends 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 recommends 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. These systems should be elaborated in close co-operation with civil society organisations and take into consideration the gender dimension, particularly from the point of view of possible double or multiple discrimination.

## **II. SPECIFIC ISSUES**

### **The situation of immigrants**

89. At the time of ECRI's second report, the number of persons coming to work and settle in Iceland had been steadily increasing. ECRI notes that since then, this trend has been confirmed and the proportion of immigrants now stands at around 4.5 % of the total population. Since the vast majority of these persons come to Iceland to work, their representation as part of the Icelandic workforce is even higher (around 7%, although this figure includes people who are working in Iceland on clearly short-term projects). As was the case at the time of ECRI's second report, immigrants come from Central Europe, especially Poland, other Nordic countries, countries in the Balkans, and Asia, especially Thailand and the Philippines. Most of those from outside the European Economic Area (EEA) are employed in low-skilled jobs in fish factories, construction work, the catering and cleaning industries, nursing homes and shops.

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<sup>31</sup> See below, Section II

90. A work permit is necessary for non-EEA nationals to come and work in Iceland. These permits, however, are not granted to the foreign worker but to the employer for a specific post and usually for a duration of 12 months. These temporary work permits can be extended, and if after three years the foreign worker is still in employment he or she is granted a permanent work permit. In its second report, ECRI considered that the system of granting temporary work permits to the employer and not to the employee left the foreign employees in a vulnerable situation. It noted, for instance, that individuals might feel reluctant to complain in cases of unequal treatment or breach of employment contracts for fear of losing residence rights in Iceland. The Icelandic authorities and the trade unions, however, have expressed support for the system of work permits as it was and still is. They have stressed that this system ensures that the foreign worker stays in employment, an aspect which is considered to be primordial to favour integration. They have also underlined that the current system enables them to better ensure that the rights of foreign workers are respected. Furthermore, they have stressed that as a rule, when an employer breaches a work contract, the foreign worker is allowed to change job. However, civil society and immigrant organisations have consistently expressed a negative opinion concerning the current system of temporary work permits, which they continue to find humiliating, but also conducive to protracted situations of exploitation. ECRI notes that in the favourable economic conditions prevailing in Iceland at present, the practice of the Icelandic authorities might allow in most cases the foreign worker who has experienced problems with the employer to stay in Iceland and change job. However, according to the letter of the legislation, a non-EEA worker in Iceland on a temporary work permit loses his or her residence rights if he or she leaves the job, and practice may therefore be different should the economic conditions change. Furthermore, ECRI notes that in spite of efforts made by the authorities, the trade unions and civil society organisations, foreign workers are not always aware of their rights or of the practice concerning work permits, a situation which reportedly results in their enduring situations of exploitation in a number of cases. ECRI understands that the system of granting work permits is currently being reviewed by the Icelandic authorities.
91. Another important element that negatively affects the position of immigrants in Iceland, delays their integration into Icelandic society and increases the risk of discrimination, is lack of knowledge of the Icelandic language. In its second report, ECRI stressed the need for Icelandic language courses to be of good quality, inexpensive, and tailored as much as possible to the individual circumstances of the person concerned. ECRI notes that since that report, developments in this area have been very limited. Language courses are still reported to be available to immigrants only at considerable cost, although ECRI notes that it is possible in some cases to have part of these costs reimbursed and that, in some cases, the employers pay for the courses. Only in a few cases are immigrants allowed to attend language courses during working hours. Furthermore, they often need to travel long distances to attend these courses. In addition, while the quality of language courses is reportedly better in the Reykjavik area, ECRI has received consistent reports according to which in some other areas the quality of teaching is not good enough. ECRI notes that research seems to indicate that only a very limited number of immigrants feel that they are able to express themselves fully in Icelandic, although the vast majority of them declare a keen interest in improving their knowledge of Icelandic. ECRI considers that availability of easily accessible and good quality Icelandic language classes is all the more important in view of the fact that as already noted in ECRI's second report, since 2003 applicants for permanent residence permits have to fulfil language requirements. Command of Icelandic is also all the more desirable in view of the reportedly low tolerance among the general public towards broken Icelandic. The Icelandic authorities have pointed out that in 2004 a curriculum for

immigrants in relation to the 2002 Act on Foreigners was prepared in cooperation with the University of Education and that a draft of this curriculum has been used to organise Icelandic language courses for immigrants.

92. Taking into account the limited command of the Icelandic language among immigrants at present, ECRI considers that availability of good quality interpretation and translation services is particularly important to ensure that these persons can adequately access and exercise their rights in different areas. ECRI notes that persons without command of the Icelandic language have a right to interpretation in certain areas, including healthcare and criminal proceedings. For the rest however, with a few exceptions, there is no obligation for the administration to provide interpretation, but only a general duty to provide information to the persons in question on their rights. ECRI notes that civil society organisations provide interpretation services. However such provision is clearly insufficient to cover the actual needs for these services. ECRI expresses concern at reports according to which lack of understanding of Icelandic has in some cases negatively affected the position of immigrants in administrative or other non-criminal proceedings as well as in other areas. ECRI furthermore notes reports according to which, in areas where provision of interpretation is obligatory, professional interpretation is not always used. ECRI furthermore notes research that seems to indicate that, even when immigrants are entitled to interpretation, they often fail to request it for lack of knowledge of their rights in this respect. ECRI is pleased to note that availability of interpretation services is one of the areas on which the newly-established Immigration Council is expected to focus<sup>32</sup>.
93. Unemployment is generally reported not to represent a problem for the immigrant population of Iceland today. In fact, official statistics indicate that immigrants are proportionally less represented than Icelandic citizens amongst the unemployed population. However, non-EEA immigrants are widely reported to be employed in positions that do not reflect their educational attainment or professional experience. In addition to the role played by limited command of the Icelandic language in determining this situation, it has been stressed that the recognition of foreign diplomas and qualifications still poses important barriers in this area. As concerns direct and indirect racial discrimination, ECRI notes that most discrimination cases in the field of employment have concerned gender discrimination. However, civil society organisations have highlighted to ECRI that cases in which racial discrimination plays a role in employment relations do occur, although the general unawareness of this phenomenon and lack of effective legal framework in this area prevent these cases from coming to the forefront.

#### ***Recommendations:***

94. ECRI recommends that the Icelandic authorities grant work permits directly to employees and not to the employers. It encourages them to strengthen their efforts to ensure that clear provision of information is available to foreign workers on their rights.
95. ECRI urges the Icelandic authorities to provide immigrants without sufficient knowledge of the Icelandic language with Icelandic language training that meets their demands. To this end, ECRI recommends 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 recommends that the Icelandic authorities ensure that these courses are tailored as much as possible to the individual circumstances of the person concerned,

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<sup>32</sup> See below.

including their levels of educational attainment and their working schedules. ECRI finally stresses that courses should be available at genuinely affordable costs to all immigrants. ECRI considers that ideally, language courses should be provided without costs for immigrants and during working hours.

96. ECRI recommends 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.
97. ECRI encourages the Icelandic authorities to take steps to ensure that immigrants gain access to professions reflecting their level of educational attainment and professional experience. To this end, it encourages the authorities in particular 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.
98. As already mentioned in ECRI's second report, family reunification in Iceland is possible, provided that support, medical insurance and housing for the family members are secured. However, the 2004 amendments to the Act on Foreigners<sup>33</sup> introduce changes as to the beneficiaries of these provisions, some of which raise serious concern with ECRI.
99. ECRI notes that foreign spouses of non-EEA citizens residing in Iceland can now only be granted a residence permit on family reunification grounds if they are over 24 years of age. The Icelandic authorities have stressed that these provisions have been introduced to counter forced marriages and marriages of convenience. ECRI notes, however, that Section 13 of the amended Act on Foreigners already contains provisions allowing a residence permit to be refused in these cases. The Icelandic authorities have furthermore indicated that in practice, if there is no well-grounded suspicion of a marriage having been contracted for convenience or without the mutual consent of the parties, residence permits are granted to spouses of foreign residents under 24 years of age. However such permits are not issued on grounds of family reunification, but on other grounds, such as education or employment. ECRI considers that the 24-year old rule excessively limits the right of foreigners to family reunification in Iceland.
100. Provided that the requirements concerning support, medical insurance and housing are met, underage children of resident non-citizens are also granted family reunification permits in Iceland. According to the letter of the amended Act on Foreigners however, if these children have not secured permanent residence before turning 18, they have to prove that they can support themselves in order to stay in Iceland. The Icelandic authorities have reported to ECRI that residence permits are generally renewed for these persons if they are in full-time education and live with their parents. However, it has been reported to ECRI that a number of these young people have dropped out of secondary education to secure employment, and thereby avoid deportation. It has also been highlighted that this situation, combined with the already disproportionate drop-out rate of young people of immigrant background from higher education<sup>34</sup>, may eventually result in the fabrication of an identifiable group of less educated persons of immigrant background.

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<sup>33</sup> See above, Reception and status of non-citizens.

<sup>34</sup> See above, Access to public services – Access to education.

### ***Recommendations:***

101. ECRI recommends that the Icelandic authorities ensure that the rights of non-citizens to private and family life and non-discrimination are thoroughly respected. To this end, it recommends that the Icelandic authorities repeal the provisions introducing a 24-year minimum age requirement for spouses of non-EEA residents of Iceland. It also strongly recommends 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.
102. In its second report, ECRI called on the Icelandic authorities to develop a coherent vision of immigration and integration and elaborate long-term overall strategies to favour mutual integration of the immigrant and non-immigrant populations of Iceland. ECRI is pleased to note that in 2005, the Icelandic authorities established an Immigration Council. The Council is composed of representatives from all Ministries with responsibilities in areas of relevance for immigrants, the Union of Local Authorities and immigrant communities. It is required to work in close co-operation with municipalities, social partners and non-governmental organisations. The tasks of the Council are: to make recommendations to the Icelandic government on policies concerning immigrants; to monitor the implementation of such policies; to establish contracts with providers of services for immigrants in different areas. These areas include: initial and on-going provision of relevant information; collection of statistical data; interpretation; local authorities' services; research and pilot projects on the situation of immigrants. ECRI considers that the establishment of the Immigration Council is an important step towards addressing the co-ordination gap on issues of immigration and integration highlighted in ECRI's second report. At the time of writing, however, the Council has only met a few times and has not yet received budgetary allocations. ECRI understands that these allocations should be assigned in the course of 2006.
103. ECRI notes that the role of the Immigration Council can be central to promoting an integrated society in Iceland. It notes that Iceland can count on a relatively long experience in implementing programmes – in a rather successful way, as mentioned above<sup>35</sup> -- targeting “quota” refugees and local communities as a whole in order to promote mutual integration. In this connection, it has been reported to ECRI that in the communities where both “quota” refugees and immigrants are established, mutual integration of majority and minority populations appears to have been more successful as concerns the former group than the latter.
104. More generally, in the current situation characterised by the absence of a specialised body to combat racism and racial discrimination<sup>36</sup>, ECRI considers that in the framework of its work to favour integration, the Immigration Council could be central in raising awareness among the general public of racial discrimination and the role this phenomenon plays in preventing mutual integration between majority and minority populations.

### ***Recommendations:***

105. ECRI encourages 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 recommends that they devote all the necessary resources to the Immigration Council to enable it to carry out its tasks effectively.

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<sup>35</sup> Reception and status of non-citizens- “Quota” refugees.

<sup>36</sup> Specialised bodies and other institutions.

In designing and implementing these strategies, ECRI strongly encourages the Icelandic authorities to draw on successful experiences existing in the country in the field of promoting mutual integration between refugees and local communities. It also recommends that these strategies include a clear focus on discrimination and, as a consequence, measures targeted at the majority population to raise its awareness of this phenomenon and the need to combat it.

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