



Convention on the Elimination of All Forms of Discrimination against Women

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**Committee on the Elimination of Discrimination
against Women**
Forty-ninth session
11 – 29 July 2011

Response to the follow-up recommendations contained in the concluding observations of the Committee pursuant to the examination of the fifth and sixth periodic reports of the State party on 8 July 2008

Iceland

“24. The Committee recommends that the State party monitor closely the implementation of Act No. 61/2007 on prostitution, reinforce existing measures to prevent and combat trafficking, especially in women and girls, and investigate thoroughly such cases, in accordance with article 6 of the Convention and the Committee’s general recommendation No. 19. The Committee also recommends that the State party investigate the prevalence of illegal „strip clubs“ by conducting research and surveys. It calls upon the State party to increase international cooperation efforts to prevent trafficking, to prosecute and punish traffickers in accordance with the gravity of their crime, ensure the protection of the human rights of women and girls who are victims of trafficking and establish a legal framework for victim and witness protection. The Committee calls upon the State party to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational and Organized Crime and the Council of Europe Convention on Action against Trafficking in Human Beings. It also calls upon the State party to provide to the Committee, in line with paragraph 246 of the present concluding observations, statistical data related to trafficking and prostitution, including information on the impact of the decriminalization of prostitution on the enjoyment of women’s human rights.“

1. As to the monitoring the implementation of Act No. 61/2007 on prostitution.

The Icelandic Penal Code has been amended since the sixth report on the implementation of the CEDAW convention was submitted by the government of Iceland for the period until 31 December 2006 and the subsequent examination at the Committee’s forty-first session held in June/July 2008.

By law No. 54/2009, that was enacted on 30 April 2010, paragraph 206 of the Penal Code (law No 19/1940) was, in accordance with the Swedish precedence, amended in such a manner as to penalize the purchase of prostitution while the selling of prostitution by the prostitute remains unpunished:

Purchasing or promising payment for prostitution is punishable by fines or imprisonment up to 1 year (para 1). If the violation occurs against a minor the perpetrator can be fined or imprisoned for up to 2 year (para 2). According to para 3 any person who bases his employment or living on prostitution practised by others shall be imprisoned for up to 4 years. According to para 4 the same punishment shall apply to deceiving, encouraging or assisting a child under the age of 18 to engage in prostitution. The same punishment shall also apply to taking steps to have any person move from or to Iceland in order to derive his or her support from prostitution (para 5). Paragraph 6 states that any person who employs deception, encouragement or mediation in order to encourage other persons to have sexual intercourse or other sexual relations in return for payment or to derive income from prostitution practised by others, e.g. by renting out premises or by other means shall be imprisoned for up to 4 years, or fined or imprisoned for up to 1 year if there are extenuating circumstances. And finally, in accordance with para 7, any person who, in a public advertisement, offers, arranges or seeks to have sexual intercourse with another person in return for payment shall be fined or imprisoned for up to 6 months. (Please note that this is an unofficial English translation.)

A number of cases have been tried in the Icelandic courts where the abovementioned paragraphs have been at stake. On June 2nd 2010 the first cases were brought before the District court of Reykjavík against 11 alleged buyers of prostitution. As a result, nine men were fined, seven for the amount of ISK. 80.000, one ISK. 40.000, one ISK. 120.000 and two were acquitted.

2. As to reinforcing existing measures to prevent and combat trafficking, especially in women and girls, and investigate thoroughly such cases.

The Icelandic Parliament adopted a National Action Plan (NAP) against Human Trafficking (HT) in March 2009. The Action Plan is available in English online¹ and is enclosed. The objective of the Action Plan is to enhance the coordination of actions that are necessary in order to prevent human trafficking in Iceland, and to further study trafficking in human beings. Furthermore, it specifies actions that are aimed at prevention and education regarding this matter and to ensure that aid and protection of victims is provided. There is also an emphasis placed on actions that aim at facilitating the prosecution of the perpetrators.

The Action Plan is divided into nine chapters with 25 actions aimed at this purpose:

- 1.) Ratification of international treaties and harmonisation of Icelandic legislation.
- 2.) Specialist and co-ordination team and the supervision of affairs concerning human trafficking.
- 3.) Education to professionals and public officials.
- 4.) Protection of victims and aid to victims.
- 5.) Police provisions and investigation into alleged trafficking in humans.
- 6.) Actions against demand in the prostitution and pornography industry.
- 7.) International co-operation.
- 8.) Proactive search and emergency phone numbers.
- 9.) Registration of information and intelligence gathering.

¹ http://eng.felagsmalaraduneyti.is/media/acrobat-enskar_sidur/The_Icelandic_Action_Plan_against_Trafficking_in_Human_Beings.pdf

A specialist and co-ordination team against human trafficking was established in October 2009 following the adoption of the Action Plan. The specialist and co-ordination team was established to ensure a comprehensive overview and knowledge of human trafficking in Iceland. The team is composed of representatives from the Ministry of Interior (formerly Ministry of Justice), Ministry of Foreign Affairs, Ministry of Welfare (formerly the now merged Ministry of Social Security and Social Services and the Ministry of Health), The National Commissioner of Police, The Directorate of Immigration, the Women's Shelter NGO and Stígamót NGO - the Counselling Centre for survivors of sexual abuse.

The role of the team is to follow up on signs of human trafficking, to identify possible victims and to grant the victims a recognised position as such, to ensure protection and assistance to victims, collect information and carry out educational activities with respect to issues of human trafficking. The team also provides consultation to government authorities and supervises the implementation of the Action Plan against Human Trafficking. An emergency team operates within the specialist and co-ordination team on human trafficking. The emergency team's role is to take the first steps to assist and protect victims of human trafficking, such as providing emergency services, a safe refuge, interpreting services and legal aid.

Human trafficking falls within the scope of the General Penal Code, No 19/1940. Art. 227 a of the Penal Code on human trafficking was amended by law No. 149/2009, adopted in the Althingi on 18 December 2009, in order to bring the Icelandic legal definition of human trafficking into harmony with the European Convention on Actions against Trafficking in Human Beings and the Palermo Protocol. The relevant Articles are as follows (please note that this is an unofficial English translation):

Article 6, point 20

Penalties shall also be imposed in accordance with the Icelandic Penal Code on account of the following offences, even if these have been committed outside the Icelandic State and irrespective of who the offender is:-

[...]

20. For offences stated in the Council of Europe Convention on Action against Trafficking in Human Beings, May 3, 2005.

Art. 227 a.

Anyone becoming guilty of the following acts, one or more, for the purpose of sexually using a person or for forced labour or to remove his/her organs shall be punished for human trafficking with up to 8 years imprisonment:-

1. Procuring, transporting, transferring, housing or accepting someone who has been subjected to unlawful force under Art. 225 or deprived of freedom as per Art. 226 or threatened as per Art. 233 or subjected to unlawful deception by awakening, strengthening or utilizing his/her lack of understanding of the person concerned about circumstances or by utilizing his/her position of vulnerability

2. Procuring, transporting, transferring, housing or accepting an individual younger than 18 years of age.

3. Rendering payment or other gain in order to acquire the approval of the exploitation by a person having control over another person.

The same penalty shall be applied to a person accepting payment or other gain according to clause 3, para. 1.

If a violation according to para 1 is committed against a child it shall be considered as an aggravating factor when deciding the severity of the punishment.

The same penalty shall be applied to anyone that becomes guilty of the following acts, one or more, for the purpose of facilitating human trafficking:

- 1. To forge a travel or identity document.*
- 2. To procure or provide such a document.*
- 3. To retain, remove, damage or destroy a travel or identity document of another person.*

The maximum penalties/sanctions for such offences are 8 years imprisonment, as stated above. Experience has shown that this has can create problems for law enforcement in keeping alleged perpetrators in custody under investigation and therefore yet another proposal of amendment of the article 227 a is due to be presented before the Althingi in the coming months.

Three cases have been tried before Icelandic courts pertaining to human trafficking, along with other charges.

I. On 1 December 2009, an Icelandic citizen of Equatorial Guinean origin was sentenced by the District Court of Reykjanes in case No S-676/2009. The defendant was acquitted of a charge of human trafficking but sentenced for pimping and other charges to imprisonment for 2 ½ years. On 3 June 2010, as a result of an appeal to the Supreme Court, the period of imprisonment was extended to 3 ½ years.

The alleged victim of HT in this case was a woman of Slovenian citizenship recruited through Spain. The victim received extensive assistance with no regard to the outcome of the court case.

II. On 8 Mars 2010, five Lithuanian citizens were found guilty by the District Court of Reykjanes in case no S-1064/2009 on a charge of human trafficking, one was acquitted. Each was sentenced to five years imprisonment. On 16 June 2010, as a result of an appeal to the Supreme Court, one was sentenced to five years imprisonment, four to four years imprisonment. The victim in this case was a young woman of Lithuanian citizenship recruited in Lithuania. It is worth noting that in this case the sentence was based on a proven *intent* of sexual exploitation, while the actual sexual exploitation had not occurred due to early intervention. The victim has received extensive and prolonged assistance.

III. On 9 July 2010, an Icelandic citizen of (the same perpetrator as in the first case) was sentenced by the District Court of Reykjanes in case no S-190/2010: The defendant was acquitted of a charge of human trafficking but sentenced for pimping and other charges to imprisonment of 15 months. The victim in this case was a young woman of Equatorial Guinean origin who has received extensive assistance.

3. As to the investigation of illegal „strip clubs“ by conducting research and surveys.

No evidence of the operation of illegal strip clubs in Iceland has been obtained by the police or others. These remained legal, with restrictions, until March 2010, when the Althingi passed a law No. 18/2010 annulling the exemption provision in Art. 4 of the law No. 85/2007 on restaurants and night clubs under which these clubs operated. This means that strip clubs are now illegal in Iceland and have either closed down or changed their operations. The police monitor the operation of night clubs and as of now no violations against the law No. 18/2010 have been investigated by the police.

4. As to a) increasing international cooperation efforts to prevent trafficking, b) to prosecute and punish traffickers in accordance with the gravity of their crime, c) ensure the protection of the human rights of women and girls who are victims of trafficking and d) establish a legal framework for victim and witness protection.

a) increasing international cooperation efforts to prevent trafficking

Iceland cooperates on these issues with the OSCE, CBSS, IOM, The Nordic Council of Ministers, UNODC and The Council of Europe. The regional cooperation within the framework of the Council of Baltic Sea States is especially beneficial in dealing with highly practical issues and problems that are relevant for the region. Iceland takes an active part in its Task Force on Trafficking in Human beings. Among its projects are studies on cooperation mechanisms within the countries and region in collaboration with the UNODC, on the collection and dissemination of data within the countries and in the region, training for diplomatic and consular personell on THB, a project on identification of human trafficking in the form of exploitation for labour, and a study on memoranda of understanding and best practices in that area, just to name some of its projects.

b) to prosecute and punish traffickers in accordance with the gravity of their crime

Reference is made to previous answer number 2.

c) ensure the protection of the human rights of women and girls who are victims of trafficking

Victims of human trafficking in Iceland, regardless of nationality or legal status in the country, or potentially former alleged violations of Icelandic law, are granted all necessary services, whether medical, social (appropriate housing incl.), financial or legal, once they have been brought to the attention of – or referred to - the Specialist and Coordination Team against trafficking in Iceland (action 2 of the NAP against HT), which operates according to the so called low threshold policy. Up to that point they may have resided in women's shelters, obtained counseling from counseling centers for victims of sexual violence or from local authorities (social services), just to name some examples of previous forms of assistance, also provided regardless of their legal status. The composition of the Specialist and Coordination team is such as to ensure a comprehensive and holistic approach to victim's assistance. Once alleged victims have obtained residence permits as such (see answer 5), they have all the legal rights that that implies. Yet another point to be made is that potential victims can, in court proceedings, be granted the right of anonymity to the public, the right to testify under the absence of alleged perpetrators or testify through video/audio links if necessary. In the case of minors that are potential victims of THB (that have not yet arisen in Iceland) the National Action Plan against Trafficking in Human beings stipulates that those cases are to be handled on the basis of the Act on Child Protection (actions 10 and 11 of the NAP).

d) establish a legal framework for victim and witness protection

There are no special legal provisions on the protection of victims or witnesses to human trafficking in Iceland. The Ministry of Interior is presently conducting an assessment on whether legal amendments need to be made regarding this. It is however worth mentioning that the National Commissioner of Police in 2010 adopted guidelines on the handling of HT cases where it is stipulated that a risk assessment is to be made in each case and protection measures conducted accordingly. This procedure has been followed in the HT cases that have already been handled in Iceland, resulting, in some cases, in extensive protection measures for both victims and witnesses and installation of surveillance and security equipment of their residences.

5. As to the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Council of Europe Convention on Action against Trafficking in Human Beings.

The United Nations Convention against Transnational Organized Crime was ratified by Iceland on 13 May 2010 and the Protocol to Prevent, Suppress and Punish Trafficking in Persons was ratified by Iceland on 22 June 2010.

Preparations for the ratification of the Council of Europe Conventions on Actions against Trafficking in Human Beings are currently being made. One of necessary legislative amendments to that end already enacted is law No. 116/2010, adopted by the Althingi on 9 September 2010 that added two categories of residence permits to the Act on Foreigners No. 96/2002. One is a six months' „reflection period” for potential victims of human trafficking and the other is a consecutive renewable one year residence permit for potential victims.

6. As to a) statistical data related to trafficking and prostitution and b) information on the impact of the decriminalization of prostitution on the enjoyment of women´s human rights.

a) statistical data related to trafficking and prostitution

One of the tasks entrusted the Specialist and Coordination Team on THB is to establish a comprehensive system on data collection and registration on THB in Iceland, in accordance with Action 24 in the NAP. In designing this system, the Team has considered guidelines from the International Organization of Migration and recommendations of a study conducted by the Council of Baltic Sea States Task Force against Trafficking in Human Beings finalized in March 2011. No official data has been published as yet, apart from data that was made public in the three court sentences already mentioned. The Specialist and Coordination Team has from its establishment in October 2009 handled the cases of 9 potential victims and ensured extensive assistance and protection as deemed needed in each case. It is worth mentioning that the Team is empowered to grant the status of a potential victim and provide measures of protection and support without regard to whether police investigation is undertaken or not or the outcome of it. The Red Cross in Iceland has conducted a study based on anecdotal evidence obtained by interviewing various NGOs, where it was argued that over 50 potential victims had been identified by these organizations in the last few years. These findings are not reflected in referrals by the same NGOs to the Specialist and Coordination Team that is mandated to initiate extensive support in the form of financial support, housing, medical, psychological and social services and measures for the purpose of rehabilitation. The decision of the Team not to publish data on these potential victims as yet is based on their scarce number and the fact that it is deemed difficult to protect their identity taking account of the low number of cases.

b) information on the impact of the decriminalization of prostitution on the enjoyment of women´s human rights.

The decriminalization of prostitution in Iceland lasted for a short period only, since Art. 206 of the Penal Code (law no 19/1940) was amended yet again by law No. 54/2009, that was enacted on 30 April 2010, as previously referred to. There exists only limited knowledge of the impact of the decriminalization and no reliable research or statistics that can be cited.