

Iceland's Second Periodic Report under article 19 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

***The Government of Iceland
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Iceland's Second Periodic Report under article 19 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Introduction

1. This Report contains information on legislation and measures taken in Iceland to comply with the country's obligations under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (herein referred to as the Convention). After that, the information requested by the Committee is presented, and the report closes with a discussion of the measures taken in response to the Committee's recommendations made on the basis of Iceland's Initial Report.

2. As Iceland's last report (CAT/C/37/Add.2, of 9th June 1998) was also its first, Part I contained a detailed account of its constitutional structure and form of government, with a description of the role of the legislature, executive and judiciary and also the functions of the Parliamentary Ombudsman. A description was given of the human rights provisions of the Constitution and the international human rights conventions of which Iceland is a member and their status in Icelandic law. The report also contained a survey of the provisions in Icelandic law that prohibit torture and make it a criminal offence, and of rules that are designed to prevent it. Finally, an account was given of the remedies available to individuals who maintain they have been subjected to torture.

3. A number of amendments have been made to the general features described in Part I of Iceland's Initial Report, but none of them is of great significance in this context. Most of them involve changes to the constitutional structure, and some statistical details have also changed. In order for the general information presented in Iceland's Initial Report to continue to serve its purpose as a source about the constitutional structure and governmental form of the country, it is necessary to update it, and this is done in the beginning of Part I of the present Report. Where this information concerns individual Articles of the Convention, they are discussed in the relevant sections of the Report. For general information about Iceland and its people, please refer to the document HRI/CORE/1/Add.26 of 24th June 1993.

4. The guidelines laid down by the Committee on 2nd June 1998 regarding the presentation of reports under paragraph 1 of Article 19 of the Convention (CAT/C/14/Rev.1) have been followed in drawing up the present Report.

PART I

NEW MEASURES AND NEW DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION.

A. New measures and developments regarding general observations in part I of the initial report of Iceland.

5. Paragraph 10 of Iceland's Initial Report stated that there were 27 district commissioners in the same number of administrative districts. The merger of local government areas in the east of Iceland has resulted in a reduction of this number by

1, so that there are now 26 administrative areas with the same number of district commissioners.

6. Paragraph 33 mentioned the visit by the Committee for Prevention of Torture (CPT) under the European Convention against Torture to Iceland in summer 1993, and stated that the committee intended to return to Iceland early in 1998. It made its visit from 29th March to 6th April 1998 and published a report on its visit on 10th December that year. The committee stated in its conclusion that it had found no indication during its visit that prisoners were subjected to torture, and few allegations of police brutality of other types against persons in custody. The allegations that the committee had found generally concerned the use of excessive force by the police when making arrests. The committee made a number of comments; its report of 10th December 1998 is submitted as Enclosure I to the present Report. The reply by the Government of Iceland is submitted as Enclosure II.

7. Paragraph 34 stated that punitive custody in Iceland was of two types: imprisonment or penal custody, but that in fact there was no difference between these two forms of serving sentences. Under the Act No. 82/1998, penal custody was deleted from the law as a form of punitive custody.

8. Paragraph 37 described the general procedure for handling charges against the police for alleged criminal offences in the course of their work. This procedure was amended by an act, No. 29/1998, amending the Police Act. Before the amendment, the National Commissioner of Police investigated these cases under the direction of the Prosecutor General. This was considered to be at variance with the principle of constitutional law, since the same party, i.e. the National Commissioner of Police, was given the power to suspend the person concerned on a temporary basis due to an alleged offence committed in the course of his or her work, and also to supervise the investigation of the alleged offence. Thus, amendments were made to Articles 5 and 35 of the Police Act, by which allegations of an offence committed by a member of the police force are to be submitted directly to the Prosecutor General, who is to supervise the investigation of the case. When handling such a case, the Prosecutor General has all the authority that the police would have had, and the police are obliged to assist the Prosecutor General with the investigation of such cases.

9. Paragraph 44 contained information on the total number of prison places in Icelandic prisons. This has not changed since the initial report of Iceland was published, and therefore remains 138. The paragraph also contained statistics on the number of prisoners during the period 1994 – 1st December 1997; these figures are updated below.

The numbers of prisoners from 1 January 1998 - 1 November 2001 are presented below, referring to the average number of prisoners each day; numbers in parentheses indicate prisoners serving their sentences outside prisons, for example in hospitals or in treatment facilities for alcohol or drug abuse.

Year	Convicted prisoners	Remand prisoners
1998	99.6 (9.6)	10.1
1999	90.8 (11.4)	10.1
2000	82.7 (12.8)	19.2.

B. New measures and developments regarding individual provisions of the convention, following the order of articles 1-16.

Article 2

10. On 22 February 1999, the Minister of Justice issued rules on the use of force by the police. These state clearly that the police shall resort to force only when necessary, and that the degree of force applied shall be as required by the particular situation. The degrees of application of force, and their order of application, are defined. The new rules and the notes accompanying them have been introduced and emphasised in all police precincts. The State Police College will also provide more detailed tuition on these matters than previously. The rules will be included in police training and the detailed explanatory notes will be presented with them. It is planned to adopt similar rules on the use of force for prison staff and for the Icelandic Coast Guard, as that agency also exercises police authority.

Article 3

11. Paragraph 52 of Iceland's Initial Report stated that Icelandic legislation guaranteed that a person would not be extradited or returned to another state if there were substantial grounds for believing that he would be in danger of being subjected to torture there. The main provisions on this point were to be found in the Extradition of Criminals Act, No. 13/1984 and the Foreign Nationals Supervision Act, No. 45/1965. It should be mentioned that a bill on a new comprehensive Foreign Nationals Act was submitted to Parliament in the autumn of 2001. This Act will replace the older Foreign Nationals Supervision Act, which has been in force since 1965. It is designed to secure the legal rights of foreign nationals who come to Iceland or leave it, stay in the country or apply for permits to do so. The bill also contains provisions on refugees' right to asylum and the protection of refugees and others against persecution. As is clearly stipulated in the explanatory notes to the bill, one of its primary objectives is to comply fully with all Iceland's international obligations concerning foreigners, for example the Geneva Convention of 1951 and various other international human rights instruments. The new bill contains the same assurance that is contained in the older legislation to the effect that persons will not be extradited or returned to another state if there are substantial grounds for believing that he will be in danger of being subjected to torture there.

12. It should also be mentioned that Iceland became a member of the Schengen Agreement in 2000. Articles 56-66 of the Schengen Agreement cover extradition. These provisions do not change in any way the provisions on extradition that were previously in force in Iceland.

13. Paragraph 53 of Iceland's Initial Report examined the provisos stated concerning the general rule of the Extradition of Criminals Act, which is that a person may be extradited to a state in which he is suspected of, charged with, or has been convicted of, committing a criminal offence. One of the provisos is stated in Article 5 of the Act, which prevents extradition for political offences. The Act No. 15/2000 added a new paragraph to Article 5, stating that specific offences may be defined in an agreement with another state as not constituting political offences. No such agreements have yet been made with other states. However the Icelandic Government is now preparing the ratification of two international conventions on terrorism where this new paragraph will be used, i.e. the United Nations Convention for the

Suppression of Terrorist Bombings from 15th December 1997 and the United Nations Convention for the Suppression of the Financing of Terrorism from 9 December 1999.

14. Paragraph 56 of Iceland's Initial Report discussed the Supreme Court Judgement of 17th October 1997, in which the Court refused to allow the extradition of a couple to the USA because there was a significant danger that they would not receive a fair trial before a court in Arizona. There was also a significant likelihood that they would be treated inhumanely by being transported in irons to their destination in accordance with rules governing prisoner transport in the United States, and in being remanded to a prison in Maricopa County, Arizona. They demonstrated that the conditions in that prison were inhuman and degrading, and that an Icelandic decision to grant the extradition request would therefore conflict with their rights under Article 68, paragraph 1, of the Constitution, Article 3 of the European Convention on Human Rights and Article 7 of the International Covenant on Civil and Political Rights. At the time that Iceland's Initial Report was submitted, the couple were still in Iceland. The matter was resolved by a meeting between Icelandic officials and representatives of the US Department of Justice at which it was explained that Iceland did not intend to take any further action in the matter. The husband went to the USA voluntarily, where he was sentenced and served his sentence, while the wife remained in Iceland.

15. Paragraph 54 of Iceland's Initial Report discussed the provisions in the Foreign Nationals Supervision Act, No. 45/1965, stating that foreign nationals could be denied entry into the country and could be deported. As is mentioned in paragraph 11 above, a new bill is to be presented to the Althing shortly. It contains provisions on refugees and the right to asylum. The bill was introduced during the Althing's session of 1998-99, and again during the last session (2000-2001), but it was not fully discussed.

16. There has been an increase in the number of applications for asylum in Iceland in recent years. The following figures cover the past four years and show the results of these applications.

Year	Applications for asylum	Applications withdrawn	Residence permits granted	Deportations	Appeals lodged with Ministry of Justice.
1997	6	0	4	2	2
1998	24	2	13	9	4
1999	24	8	5	11	9
2000	25	2	4	19	20

It should be mentioned that during the period 1st January – 1st November 2001, the Directorate of Immigration received 51 applications for asylum.

Article 4, Article 5 and Article 6

17. Please refer to Iceland's Initial Report regarding these articles. No new measures or developments have been made concerning these articles since the Initial Report was submitted.

Article 7

18. Please refer to Iceland's Initial Report regarding this article. The only legislative amendment concerning this article is that investigations of cases involving offences by police officers in the course of their work are no longer to be handled by the National Commissioner of Police (see paragraph 8 above).

Article 8 and Article 9

19. No further material needs to be added to the discussion of these articles in Iceland's Initial Report.

Article 10

20. Please refer to Iceland's Initial Report regarding this article; however, certain changes have occurred in the general information presented there. Some amendments have been made to the Police Act since Iceland's Initial Report was submitted. Paragraph 95 of the Initial Report described the appointment of police officers. Following the changes introduced by the Act No. 29/1998, the Minister of Justice now appoints Chief Constables and Deputy Chief Constables for periods of five years at a time, while the National Police Commissioner appoints other police officers for periods of five years at a time. Information on the National Police College was given in paragraph 96 of the Initial Report. Some changes have been made to the length of basic training in the college: practical training has been shortened, the number of hours spent in the college has been increased and the entire course is more compact than it used to be. Basic police training now lasts 12 months, from January to December, and is divided into three terms of four months each. The first is spent on theoretical training, ending with an examination. Trainees who pass the examination then sign contracts as policemen and spend the four months of the second term undergoing practical training in the local police force, under supervision. Then follows another term in the college, ending with examinations. The standard set in the examinations is relatively high, and those who pass then graduate from the basic training department and may apply for vacant positions anywhere in the country's police forces. In recent years about 30 new trainees have been admitted to the college each year. This number is now rising; this year there were 40 and 48 have already been chosen to begin training in the beginning of January 2002. Special efforts have been made in the secondary training department of the National Police College in recent years to raise policemen's awareness of the importance of human rights in the course of their work. This included the translation of a booklet that the Council of Europe had prepared as part of the campaign "Police and Human Rights, 1997-2000". It describes a typical visit by the Committee for Prevention of Torture (CPT) to a police station (15 questions and answers for the police). It is intended to explain to the police the scope and powers of the CPT regarding their work, and it also contains important rules, e.g. the rules of the CPT designed to prevent torture and inhuman treatment, rules on legal protection, physical conditions and facilities, etc. The booklet is also used as a permanent feature in the National Police College's continuing education courses. Almost half of the country's 250 active policemen have attended such courses in the space of a little more than a year.

21. It should also be mentioned that the booklet, both in English and in the Icelandic translation, was sent out to all police commissioners in Iceland, the Prosecutor General and the National Commissioner of Police. A photocopy of the English edition of the booklet is submitted as Enclosure III.

22. It should also be mentioned that Iceland's Initial Report under the Convention was sent to the following parties: the National Commissioner of Police, the National Police College, the Prosecutor General, the National Prison Administration, the Directorate of Immigration, the Ministry of Health, the Director-General of Public Health, the Ministry of Foreign Affairs, the Parliamentary Ombudsman, the Icelandic Human Rights Agency, the Human Rights Institute of the University of Iceland, the Icelandic division of Amnesty International and the Icelandic Red Cross. The observations made by the UN Committee Against Torture regarding Iceland's Initial Report were translated into Icelandic and sent to the Parliamentary Ombudsman, the Human Rights Agency and the General Committee of the Althing, and also to all the media in the form of a press release.

Article 11

23. No new measures or developments have occurred in the area covered by this article. Please refer to Iceland's Initial Report.

Article 12 and Article 13

24. Iceland's Initial Report included a description of the procedure and procedural rules applying to an investigation undertaken at the instigation of the authorities when a suspicion arises that torture has been applied, and regarding the right of an individual to bring charges alleging the use of torture against him. As is mentioned in paragraph 8 above, a small amendment was made to Article 35 of the Police Act, No. 90/1996; this article covers the investigation of alleged offences by the police. Whereas previously the law stated that the National Commissioner of Police was to undertake the investigation of such cases under the direction of the Prosecutor General, under the amendment, the Prosecutor General now decides which police officers he appoints to handle the investigation. In other respects, the procedure is the same as that described in Iceland's Initial Report.

25. A few cases have been examined under Article 35 of the Police Act over the past five years. None of them involved allegations that policemen or other representatives of state authority had used coercion to obtain confessions or other information in connection with the investigation of criminal cases. Most of the complaints concerned the misuse of power in the course of police work, e.g. in connection with arrests or detention following arrest, illegal seizure of objects and illegal searches of premises. The following table shows the number of accusations brought against the police over the past 5 years and how many of them concerned the brutality when making arrests and the abuse of power in the course of other actions by the police.

Year	Charges, total	Brutality in making arrests	Other actions by the police
1997	5	4	1
1998	26	15	11
1999	14	7	7
2000	16	11	5
2001(-31 st Oct.)	18	12	6

26. It should be mentioned that where one policeman is involved in an accusation, this is recorded as one separate case, and that some of the instances listed here therefore reflect the fact that several policemen were implicated in one and the same accusation. Only one accusation brought in the period under examination resulted in an indictment; in this case, a policeman was indicted for having driven a police car under emergency conditions without showing due caution; the consequence was that it collided with a car crossing an intersection under a green traffic light, resulting in very serious injury to the driver of that car. The policeman was acquitted of the charge of violating Art. 219 of the General Penal Code (assault and battery caused by inadvertence), the Traffic Law and Regulation on Emergency Driving.

27. Several cases arising in 2001 are still under investigation, and it has not been decided whether indictments will be issued.

28. As was described in paragraph 125 of Iceland's Initial Report, a prisoner may present a complaint to the effect that a warder has tortured him to the director of the relevant prison or the Prison and Probation Administration, or may send a complaint of this nature directly to the commissioner of police in the area in which the prison is located. The Prison and Probation Administration received two communications from prisoners complaining about degrading treatment during the period 1st January 1997 – 1st November 2001. In one, a prisoner complained that a warder had kept him under observation through the hatch on the door of his cell, and in the other a prisoner complained about the conduct of a warder, who was his work foreman, and alleged that another prison warder had persecuted him. Neither of these complaints involved allegations of torture or physical violence, but of alleged mental cruelty. The complaints were examined according to the normal procedure, i.e., the parties concerned were given the opportunity of expressing their position on the matter, after which it was decided what action should be taken. In these cases, the complaints did not give grounds for further measures following examination; such complaints can result in the employee being given a reprimand if it is considered that he has neglected or exceeded ordinary professional duties, or in a police investigation if it is thought likely that criminal conduct was involved. Only one complaint was received by the police during the aforementioned period; it was directed not against specific persons but against the prison authorities. The case was accepted for examination by the Reykjavík Police, and was cancelled just under a month later.

29. Any person who considers he has been wrongly treated by the authorities can submit a complaint to the Parliamentary Ombudsman. No complaints concerning torture or other inhuman or degrading treatment by a public employee towards prisoners or persons deprived of their freedom for other reasons have been received by the Parliamentary Ombudsman since Iceland's Initial Report was submitted. On the other hand, the Parliamentary Ombudsman drew attention to Article 3 of the European Convention on Human Rights in one of his opinions, dated 7th July 2000, in Case No. 2426/1998. In this case, a prisoner had complained about being subjected to solitary confinement because of an alleged breach of discipline. He had been found sitting naked on the carpet in his cell, smoking a cigar, with a fire burning in a heap of clothes. He had also made a cut in his arm and drawn blood. The prisoner stated that he had not slept for two days, and that he was being persecuted by voices. The prison doctor was given a call; he prescribed medication and decided to examine the prisoner

the following morning. Ten days previously, the same doctor had reduced the dosage of the medication at his request. The prison director decided to impose disciplinary measures on the prisoner for his conduct, and that he was to spend 5 days in solitary confinement during which he was not to have access to television; he was to be deprived of his wages for 21 days, was not permitted to receive or send letters, or to receive or make telephone calls, for 21 days and visits to him were restricted to 1 hour per week, and had to take place in special visiting room in the prison's security wing. The prisoner complained to the Ministry of Justice and Ecclesiastical Affairs about this decision, and described his mental problems, which he said had taken a sudden turn for the worse after the dosage of his medication had been reduced. He argued that the prison warders ought to have noticed this and called a psychologist or psychiatrist, so avoiding the incident that had led to the imposition of the disciplinary measures. The ministry's ruling stated that there had been no necessity for the prison warders to consult a psychologist or a doctor prior to the incident, and thus the decision against which the prisoner had appealed was upheld. The prisoner's complaint to the Parliamentary Ombudsman concerned, firstly, how late his complaint had been received by the Ministry of Justice, and, secondly, the consideration that his psychological condition should have constituted grounds for the prison authorities to intervene before the incident at the heart of the case took place. The Ombudsman also examined the decision to put the prisoner in solitary confinement in the light of his psychological condition at the time that the decision was taken. The Ombudsman's conclusion was that under Article 31 of the Prisons and Imprisonment Act, the scope of the director's investigative duties included not only the taking of statements and the gathering of information regarding the breach of discipline itself, but also the duty to investigate whether the prisoner could withstand solitary confinement; in this connection, the Ombudsman referred to paragraph 1 of Article 38 of the European Prison Rules. The Ombudsman's view was that the prisoner's condition and his explanation of the incident gave grounds for making such an examination and for seeking the written confirmation of the prison doctor that his psychological condition was such that there was nothing to prevent his being placed in solitary confinement. The Ombudsman also considered that the Ministry of Justice should have made a special examination of the grounds justifying the imposition of solitary confinement with regard to these considerations. In connection with this case, the Ombudsman drew attention to Article 3 of the European Convention on Human Rights. He emphasised that the ratification of the convention entailed an undertaking by Iceland to arrange its legislation and administrative procedures in such a way as to respect the rights enshrined in the convention. The Ombudsman said that the government was therefore obliged to arrange the service of sentences in such a way as to take account of prisoners' physical and mental well-being and to ensure them appropriate medical services.

30. It was reported in Iceland's Initial Report that a man who had been confined in hospital against his will under the Legal Competence Act could, under Article 30 of the Act, refer a decision on involuntary hospitalisation and enforced medical treatment to the courts. No cases have been received by the Supreme Court involving inhuman treatment during such periods of enforced confinement; on the other hand, some cases have been brought before the courts appealing against decisions by the Ministry of Justice on such enforced confinement. No complaints have ever been received by the Director General of Public Health or by the special committee that

deals with disputes that arise in dealings between the public and the employees of the health services.

Article 14

31. Iceland's Initial Report described in detail the legislation providing a remedy by which any person who has been tortured can demand compensation before the courts and receive fair and satisfactory compensation. No amendments have been made to this legislation.

32. No court cases concerning demands for compensation for torture or other inhuman treatment by public employees have been held since Iceland's Initial Report was submitted.

Article 15

33. No further developments have taken place in this area since Iceland's Initial Report was submitted. Reference is made to section C of Part III of this Report concerning the committee's recommendation that torture be defined as a specific offence in Icelandic legislation.

Article 16

34. No new measures or developments have taken place in the legislative field, and no judgements or rulings have been delivered on matters covered by this article.

PART II

ADDITIONAL INFORMATION REQUESTED BY THE COMMITTEE

A. Information on constraining measures applied in psychiatric hospitals.

35. Patients with mental problems are housed in four institutions in Iceland: Sogn, the Psychiatric Ward of the National and University Hospital, the Psychiatric Ward of the Provincial Hospital in Akureyri and Stuðlar. The first three of these are administered by the Ministry of Health and the last by the Ministry of Social Affairs. Some of them are closed institutions; to this extent, constraint is imposed on the inmates. On the other hand, it must be stated that in none of them are physical constraints used, such as straps or straightjackets or the like. Nor are the inmates kept in solitary confinement. Instead, they are kept under supervision as is considered necessary by the directors, who are specially qualified. The number of persons involved in such supervision may have to be increased temporarily in the case of certain individuals.

36. Sogn is a general institution for the criminally insane. It is located in a rural district in the south of Iceland, Ölfus in the county of Árnessýsla, about 70 km from Reykjavík. It generally has places for 7 persons. Serious offenders who have been sentenced to be detained under security conditions under Article 62 of the General Penal Code are detained there. Their diagnoses include, for example, schizophrenia, manic-depression and mental retardation. The ward is closed. On arrival, patients receive a sheet stating the rules of the institution and they are informed of their rights and obligations under the Patients' Rights Act.

37. The Psychiatric Ward of the National and University Hospital is located in the capital, Reykjavík. It comprises a large number of smaller units, some of which are closed if the patients are committed to hospital against their will. The total number of beds in the ward is 260.

38. The Psychiatric Ward of the Provincial Hospital in Akureyri is in the town of Akureyri in the north of the country, serving the psychiatric needs of a region with about 40,000 inhabitants. It has beds for 10 patients. The ward is generally not closed, except in cases when patients are committed to hospital against their will, and even then this is often not necessary in such cases. On arrival, patients receive a sheet stating the rules of the institution and their rights as patients. This information sheet is currently under review, and the plan is that the patients' relatives will also receive a copy of the new version when patients are hospitalised.

39. Patients in the psychiatric wards of the National and University Hospital and the Provincial Hospital in Akureyri are generally placed there with their consent, though it may happen that they are committed to hospital against their will.

40. The Legal Competence Act, No. 71/1997, contains provisions on the commitment of individuals to hospital. Under the act, a person may be committed to a psychiatric hospital against his will for up to 48 hours at the request of a doctor or his close relatives. In urgent cases that cannot be delayed, or if there are no close relatives, the relevant social affairs authorities can present such a request. Those involved must be informed of their right to refer such a decision to a district court. Enforced commitment may then be extended for up to 21 days if the Ministry of Justice so allows at the request of the doctor who originally requested the commitment, or at the request of the senior psychiatrist of the relevant ward. Also in such cases, the patient is to be informed of his right to refer the ministry's decision to a district court. At all stages of these proceedings, the patient has the right to the assistance of a legal adviser appointed at no cost to himself, and to the services of a lawyer when the case is examined by a court. In order to guarantee that independent and impartial medical considerations are observed when ordering the extension of enforced commitment, the rule in Icelandic psychiatric wards is that the opinion of a psychiatrist from another psychiatric ward should be obtained, where this is possible. In most cases, a written confirmation from the individual's general practitioner regarding the need for an extension, and an opinion issued by the consultant physician of the Ministry of Justice are also obtained.

41. The extension of enforced commitment to a hospital beyond 23 days is subject to a ruling by a judge depriving the patient of the competence to manage his own affairs for up to 6 months. Further extension may only take place if a court delivers another ruling on the deprivation of legal competence following similar legal treatment.

42. The Legal Competence Act also contains provisions on the treatment of persons who are forcibly committed to hospital. Article 28 states that a person who is forcibly committed to a hospital without the approval of the Ministry of Justice having been obtained shall not be subjected to the enforced administration of medication or other enforced treatment; however, the physician on duty may decide that he shall receive enforced medication or other enforced treatment if he poses a

threat to himself or other persons, or if his life is otherwise in jeopardy. The act also states that a person who is committed to hospital against his will with the approval of the Ministry of Justice may only be subjected to the enforced administration of medication or other enforced treatment in accordance with the decision of a senior physician. The provision states that the Minister of Health may issue further regulations on the enforced administration of medication or other enforced treatment under the same article. No such regulations have been issued, however. "Enforced treatment" in this provision does not refer to the use of physical coercion of any type, such as the use of straps, straightjackets, etc.

43. Stuðlar is a diagnostic and treatment centre for young persons under 18 years of age. It is located on the outskirts of Reykjavík. It is not a psychiatric hospital, and the rules applying to it are different from those in the three institutions described above. Under the Legal Competence Act, individuals become legally competent (attain legal majority) at the age of 18. Legal minors can therefore be committed to Stuðlar against their will at the request of their parents or legal guardians.

44. Stuðlar is administered by the Child Welfare Agency, a body under the supervision of the Ministry of Social Affairs. Treatment centres administered by the Child Welfare Agency are of two types. On the one hand there is Stuðlar, the National Treatment Centre for Young Persons, which provides diagnostic treatment and short-term placement in emergency cases, and on the other there are long-term treatment homes, all of which are privately run under contracts with the Child Welfare Agency. The general pattern is that children and young persons go to Stuðlar for diagnosis, and thereafter to a long-term treatment centre when appropriate.

45. Stuðlar is a semi-closed institution, and its functions are of two types. On the one hand, its emergency department provides a home for up to four teenagers; on the other, up to eight teenagers who have been referred by child welfare committees for treatment can stay in the treatment department for up to four months. Facilities include treatment rooms, schoolrooms, a computer room, a workroom, a gymnasium, a hobby room and a securely enclosed garden.

46. On arrival, teenagers are first placed in the emergency department, which is closed and subject to fairly strict rules. During this first period of examination and assessment, which normally takes only 24 hours but may take up to a maximum of 14 days, they are under close observation by the staff. The outside doors are kept locked round the clock, and the doors of the individual rooms may be locked at night. During this phase, the teenagers are in their rooms, where they can listen to the radio and watch television after 16.00 hours. If they are kept in the emergency department for more than 24 hours then they are to be allowed to be outside in the garden for at least an hour a day. After this initial period, they are permitted more and more "freedom" in stages, from the one-hour period in the garden to organised recreational trips, visits to the cinema and to a swimming pool. This description of the treatment centre will suffice for the present report; a more detailed account was given in the CPT's report of 10th December 1998 to the Government of Iceland, which is submitted as Enclosure I to the present Report (see Section II, D, paragraphs 120-142).

47. There are 8 other treatment centres under the control of the Child Welfare Agency, with 48 places for teenagers aged 13-18. They have different specialist emphases. For example, the Árbót centre is for teenagers with behavioural problems, criminal tendencies or difficult home backgrounds; the Háholt centre is for teenagers with serious drug problems, long criminal records and violent tendencies. No more detailed survey of these centres is called for in the context of the present Report.

48. Rules were issued on 1st February 1999 on the rights of children and the use of coercion in treatment centres under the supervision of the Child Welfare Agency. Those rules replaced previous rules on the rights of children and young persons in treatment centres under the supervision of the Child Welfare from 1st November 1997. Chapter I of these new rules explains the aim of placement in treatment centres, the rights of children placed in such centres and the provisions for restricting these rights. Chapter II describes the restrictions that may be imposed on contact between the children and other persons. Chapter III describes the coercive methods that may be used; Chapter IV describes the rules applying to the closed unit of the National Treatment Centre for Young Persons (Stuðlar) and Chapter V sets out rules on the registration of information, monitoring and complaints by the inmates. The inmates and their parents/guardians receive copies of these rules on commitment to the institutions.

49. Here follows a discussion of the rules in Chapter III on coercive measures. Under Article 8, the use of all physical punishment, the administration of medication without consulting a physician, solitary confinement and the use of coercive objects, such as ropes, tape, belts or other objects or instruments used to impose physical constraint, is prohibited, both for purposes of punishment and for educative or treatment purposes. Article 9 lists the measures that may be applied in emergency situations; it permits all measures necessary to avoid or put an end to an assault, attack or other conduct that causes a risk of injury to persons or damage to objects. The coercive measures may only be applied for the duration of the dangerous situation, and are to be kept proportionate, as far as is possible, to the person's conduct and the degree of injury or damage likely to result from it. Under Article 10, which contains provisions for stopping undesirable behaviour, physical coercion in which an inmate is held still and/or moved between places or rooms is permitted in cases when it is necessary to prevent his displaying conduct that is completely unacceptable, or if his conduct has a damaging effect on the treatment of other inmates. Before applying coercion, however, attempts must be made to stop the behaviour in the mildest manner possible, e.g. by verbal persuasion. The provision states that the coercion applied is to be in proportion to the conduct it is designed to control, and may not last longer than is strictly necessary. Article 11 covers cases in which it is necessary to remove an inmate because of undesirable behaviour and confine him far from the other inmates. In such cases, one member of the staff is normally to be in the room with the person or in an adjacent room with an unlocked door leading into the inmate's room. The rules state that the room in which the inmate is kept must have a window and a minimum area of 6 m², and that the period of confinement is to last as short as possible. Article 12 contains provision for transferring an inmate to a closed department; this can be done following an escape or uncontrollable behaviour that has deteriorated and can not be controlled by other means. Article 13 contains provisions on body searches and searches of inmates' rooms, stating when and how these may be made. Article 18 states that all decisions on coercive measures are to be recorded in a

special report and sent immediately to the Child Welfare Agency and the relevant child welfare committee. If the Chile Welfare Agency makes specific comments on such measures, they are to be sent to the director of the treatment centre, the relevant child welfare committee and the parents or guardians of the inmate. Under Article 19, inmates, their parents or guardians, the parties who committed them to the institutions and the staff of the institutions may submit complaints to the Child Welfare Agency, and are also obliged to assist inmates in submitting complaints.

PART III.

COMPLIANCE WITH THE COMMITTEE'S CONCLUSIONS AND RECOMMENDATIONS

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

50. As was stated in Iceland's Initial Report, there are three main provisions in Icelandic legislation which prohibit torture and other cruel, inhuman or degrading treatment. Firstly, torture is prohibited under the Constitution (the Act No. 33/1944), Article 68 of which states: "No person may be subjected to torture or other inhuman or degrading treatment or punishment." As was stated in section 2 of Part I of Iceland's Initial Report, this provision was introduced into the Constitution as a result of the amendment made by the Act No. 97/1995; prior to that, however, it had been regarded as a fundamental unwritten principle that no one was to be subjected to torture. The term "torture" is not defined in this article of the Constitution. Secondly, a comparable provision exists in Article 3 of the European Convention on Human Rights; following its ratification by the Act No. 62/1994, the provisions of the Convention have the force of law in Iceland. Thirdly, there are provisions in the General Penal Code in which torture is made a criminal offence, though the term "torture" is not specifically defined or mentioned in the code.

51. When the Constitution was amended in 1995, it was stated in the explanatory notes to the amending legislation that there were three main aims in the review of the human rights provisions of the Constitution. Firstly, the aim was to clarify the provisions and bring them into conformity with each other so as to make them give more effective protection to the public in their dealings with those who exercise the power of the state. Secondly, the review attempted to modernise certain provisions, and thirdly, it attempted to take into account the international legal obligations that Iceland had undertaken through its membership of international human rights conventions. The explanatory notes contained an extensive discussion of these international conventions and their validity in domestic legislation. This stated, amongst other things, that as a consequence of the dualistic principle underlying Icelandic law, international conventions were not automatically part of domestic law, and that their provisions could therefore not be applied by Icelandic courts unless they had been specifically incorporated in Icelandic law. Nevertheless, the interpretative principle applied that domestic legislation was to be interpreted with reference to international law, and that where there was a discrepancy, domestic legislation was generally to prevail. Nevertheless, in recent years the Icelandic courts had taken international human rights conventions increasingly into account when interpreting Icelandic law.

52. The notes to the article of the Constitution prohibiting torture stated that clear provisions prohibiting torture and inhuman or degrading treatment and punishment in international conventions that Iceland had ratified. The notes stated that these provisions were set forth in greater detail in the conventions than was being proposed in the bill. It pointed out that an unequivocal prohibition of torture and inhuman or degrading treatment and punishment was stated in Article 3 of the European Convention on Human Rights, and that there was a comparable provision in Article 7 of the International Convention on Civil and Political Rights. In both conventions, the guarantee of immunity against torture was specifically set out as an unconditional right, the violation of which could never be justified by emergency situations or war. The notes to the bill described how agreements had been made under the auspices of both the Council of Europe and the United Nations, i.e. the 1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which Iceland had ratified, and the UN Convention of 1984 on the same matters.

53. The notes to the bill also stated that the intention in the provision was to refer specifically to circumstances in which the individual concerned had been deprived of his freedom, as there was a greater danger of being subjected to torture or inhuman treatment in cases where the individual is held against his will. Thus, particular attention was to be given to the treatment of arrested persons and persons serving prison sentences, those who had been deprived of their freedom due to psychiatric illness and were confined to a hospital, and legal minors confined to a home or reformatory. However, it was pointed out that it was not the case that torture and inhuman and degrading treatment were always associated with the loss of freedom, as circumstances could apply in which an individual was subject to the authority of another or was under the domination of another individual. Examples of this could include the treatment of children in a school or other institution where children are looked after, but the provision could also cover the treatment of children by their parents. The notes stated that the provision included a prohibition on medical or scientific experiments without the consent of the person involved; this was stated explicitly in the second sentence of Article 7 of the International Convention on Civil and Political Rights. The notes stated that this provision entailed a general prohibition against medical treatment without the consent of the person involved if there were no acute mortal danger; treatment of the type referred to could include infertility operations and other operations that could have a permanent effect on the life of the individual.

54. The notes to the bill included an attempt to describe precisely what constituted degrading treatment as distinct from inhuman treatment, though it was emphasised that it was not easy to draw a hard and fast line between the two. Nonetheless, it was stated that degrading treatment could be described as actions or the lack of action designed to degrade or humiliate a person, or that could generally be regarded as humiliating. Examples mentioned in this connection included coercive measures used against a person who has been deprived of his freedom, such as being made to wear certain clothing, such as a prisoner's uniform, having his head shaved against his will or being put on display to others against his will.

55. Finally, it was stated in the notes that the prohibition against torture and inhuman or degrading punishment referred specifically to the treatment of prisoners serving sentences, and that the aforementioned examples of conduct covered by the provision also applied in the same way in the case of punishment. Thus, the unequivocal conclusion could be drawn from the provision that it included a prohibition of corporal punishment of all types.

56. In the light of the detailed explanation of the content of the constitutional provision on torture and other inhuman and degrading treatment given in the notes to the bill that became the Act No. 97/1995, as described above, there can be no doubt as to what is referred to by the word “torture”, even though it is not specifically defined.

57. Enacted legislation is the supreme source of law in Icelandic law. It is the function of the courts to judge according to the law, and their role is to interpret the law and determine the content of each legal provision as a whole. In Icelandic legal practice, when interpreting the law, the will of the legislature is an important interpretative aid. It has happened that the courts, in their judgements, have put almost exclusive emphasis on the will of the legislature. When examining the will of the legislature, it is important to examine all materials that can throw light on the attitude of the legislature towards the provisions it sets, such as the explanatory notes accompanying bills, the opinions of committees, discussions in the Althing (parliament) and other steps taken in the course leading to the enactment of the law.

58. When this, and the general principle of Icelandic law that legal provisions are to be interpreted in harmony with international legal obligations, there can be no doubt that the term “torture” would be interpreted in accordance with Article 1 of the Convention if it were to be contested before the courts. It should also be mentioned that the provisions of the Icelandic Constitution and Article 3 of the European Convention on Human Rights are somewhat broader than the interpretation that can be derived from Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as they are not restricted to the view that torture is something practised at the behest of a public servant or another representative of state power, but apply to all situations. Hitherto, the interpretation of the term has not been an issue before the Icelandic courts.

59. Finally, it should be mentioned that even though the term “torture” is not used in the General Penal Code, there is no doubt that conduct involving torture is a punishable under the code. Many of the basic terms used in the Icelandic legal system have not been defined in the General Penal Code, including, for example, rape and murder, but it would not occur to anyone to argue that such conduct was not a criminal offence under Icelandic law. What is of importance here is not so much the term used to refer to the conduct, but the fact that the conduct itself is described as criminal.

60. The Government of Iceland takes the view that Icelandic law contains satisfactory provisions applying to torture, both physical and mental, as covered by Article 1 of the Convention. There are no plans to amend the present legislation. A detailed account was given of the provisions of the General Penal Code regarding torture in the discussion of Article 4 of the Convention in paragraphs 59-69 of Iceland’s Initial Report, to which reference is made for further information.

B. The Committee's recommendations that the Icelandic authorities review the provisions regulating solitary confinement during pre-trial detention in order to reduce considerably the cases to which solitary confinement could be applicable.

61. The conditions that must be met for detaining a person in custody are set out in Article 103 of the Code of Criminal Procedure, No. 19/1991:

“1. A suspected person can only be remanded in custody if there is a reasonable cause to believe that he has committed an act punishable by imprisonment, and provided he has attained the age of 15 years. In addition to this, at least one of the following conditions must be fulfilled:

- a. it may be assumed that he would otherwise hinder the investigation of his case, for example by removing evidence of his offence, hiding objects, or influencing witnesses or other persons who took part in the commission of the offence;
- b. it may be assumed that he would otherwise leave the country, go into hiding or otherwise evade prosecution or sentence;
- c. it may be assumed that he would otherwise continue criminal activity until such time as his case is brought to a conclusion;
- d. imprisonment on remand is deemed necessary in order to protect others from the suspect, or the suspect from being attacked or influenced by other persons.

2. A person may also be remanded in custody even if the conditions in subparagraphs (a) – (d) have not been fulfilled, if there is a strong reason to believe that he has committed a crime punishable under law by 10 years' imprisonment, and imprisonment on remand is deemed necessary with a view to the public interest.”

62. A remand prisoner can only be placed in solitary confinement if the remand order is based on Article 103 paragraph 1 (a) of the Code of Criminal Procedure. Obviously, deprivation of liberty will generally suffice if there is deemed to be a danger that the suspect would otherwise hide objects or remove evidence, etc. Deprivation of liberty will not always suffice, however, to prevent a suspect from trying to influence witnesses or accomplices during an investigation. This means that solitary confinement may be necessary for the interests of the investigation. Solitary confinement is considered only in cases in which this danger is believed to exist.

63. According to paragraph 1 of Article 16 of the Regulations on Remand Imprisonment, No 179/1992, the director of the investigation is to decide whether a remand prisoner is to be kept in solitary confinement due to the requirements of the investigation. Under paragraph 2 of the same Article, a remand prisoner can always refer a decision on such solitary confinement to a court. Under an amendment made to the Regulations in 1995, remand prisoners are to be informed of this right in a demonstrable manner. In such a case the police must, in court, substantiate the reasons underlying their request for the prisoner's isolation, and the court must then take a reasoned stand to the question whether his isolation is necessary or not. If imprisonment on remand is to be prolonged, the suspect is again brought to court. The

prisoner can then challenge the request that his isolation is to continue after the remand has been prolonged.

64. When the person in charge of the investigation decides to keep a suspect in solitary confinement, this is always done in conformity with the principle of proportionality, and steps are taken to ensure the minimum degree of encroachment on the prisoner's rights that is necessary in order to achieve the aim. Article 108 of the Code of Criminal Procedure provides for the arrangement of custody. According to article 108 the following restrictions may apply: 1) Solitary confinement, 2) a prohibition on receiving visitors, 3) a prohibition on making or receiving telephone calls, 4) censorship of letters and 5) a prohibition on access to the media. In the nature of things, solitary confinement means that the prisoner is kept on his own. Complete isolation in solitary confinement involves the imposition of prohibitions 1-5 listed above. The degree of isolation is generally reduced as the investigation progresses, e.g. with access to the media being permitted first, following by the lifting of the other prohibitions in the above list. However, the main rule is that solitary confinement is at all times to last for the shortest possible time. After it has been discontinued, the prohibitions in items 2-5 may nevertheless be retained. Each time the director of the investigation reduces the degree of isolation he sends a notification to the Prison and Probation Association.

65. Between 1st January 1997 and 31st October 2001, 416 persons were remanded in custody, the breakdown being as follows:

Year	Remand, total.	Mixed with others	Solitary conf.
1997	88	18	70
1998	56	14	42
1999	115	15	100
2000	76	5	71
2001	81	6	75

66. The length of solitary confinement imposed in the cases of the 358 remand prisoners who were held in solitary confinement was as follows:

Length of solitary confinement	No. of prisoners
1 week or less (1-7 days)	196
1-2 weeks (8-14 days)	75
2-3 weeks (15-21 days)	42
3-4 weeks (22-28 days)	19
4-5 weeks (29-36 days)	13
5-6 weeks (37-44 days)	6
6 weeks or more (45-84 days)	7

Enclosure IV with this Report gives more detailed information about the number of days spent by prisoners in solitary confinement.

67. It is very rare that solitary confinement lasts for more than 6 weeks. All 7 cases listed above in which solitary confinement lasted for more than 6 weeks involved the investigation of extremely wide-ranging and complex drug cases.

68. In the vast majority of cases, remand prisoners are kept in the prison at Litla Hraun, where there are places for 10 such prisoners. The nature of contact between the prison warders and the prisoners is not determined in advance; instead, it reflects the needs of each individual prisoner. Each prisoner's mental and physical condition is taken into account, and also whether there is a danger that they will cause themselves injuries. The number of times the prison warders visit the prisoners is based on this assessment. Special rules were issued in September 1999 on ways of responding to the danger that prisoners would commit suicide, including the monitoring of such prisoners. An observation camera was set up in one cell that is used almost exclusively for prisoners who are at risk of attempting suicide. In each cell there is a button that the prisoner can press to ring if he needs help or service. It operates a two-way communication system through which he can express his wishes to the warders, e.g. requests to go to the toilet, go outside the building, etc. The degree of contact between prisoners and warders may vary widely, according to the prisoners' wishes. Entertainment available to prisoners is restricted to reading books and listening to music. The prison at Litla Hraun does not have facilities for prisoners to watch films in their cells. When a new prison is built in the Reykjavík area, as is planned within the next few years, the intention is to have far more varied facilities for remand prisoners to be able to engage in leisure activities which they are in solitary confinement. The rules on going outside the building have been relaxed a great deal in the past few years, from a maximum permitted period of 1 hour per day to an almost unrestricted period. At present, a remand prisoner can ask to go outside the building at any time of the day. Prisoners spend these periods outside the building in a securely fenced prison garden area.

69. It is rare that decision by the director of an investigation to impose solitary confinement are referred to the courts, and it can be assumed, in the light of the amendment to the regulations made in 1995, stating that prisoners are to be informed clearly of their right to refer such a decision to a judge, that the explanation for this is that remand prisoners generally regard the decisions as acceptable. It should be mentioned that they are able to refer the decisions to a judge at any stage of their solitary confinement.

70. Between 1st January 1997 and 31st October 2001 only three cases were submitted to the District Court of Reykjavík regarding the arrangement of remand custody. Two cases lead to a verdict in which the prisoners' requests were denied (Cases No. R-14/1997 and R-194/2001) and the third case lead to a compromise by the police (Case No. 190/2001). Neither of the verdicts were appealed the Supreme Court. One case was submitted to the District Court of Reykjanes in which the district court judge denied the requests of the prisoner, but the Supreme Court ruled in favor of the prisoner (Supreme Court Decision No. 1997:3239) No. In case No. R-14/1997 the prisoner was remanded in custody by a judge on 12th January 1997 which should maintain until 28th January. In court the director of the investigation had declared that the accused would be imposed to complete isolation. On the 14th January the prisoners complaint regarding the complete isolation was submitted to the court and on that same day the judge reached a verdict in which he denied the request of the

prisoner on the grounds that the investigation of the matter would be extensive and there were many witnesses and others, that could possibly be involved in the offence, that still had not been interrogated. In case No. R-190/2001 the prisoner submitted a complaint to the court regarding the prohibition on receiving visitors. In court the police suggested a compromise which consisted in the prisoner's parents permission to visit under police supervision and that his girlfriend would be allowed a visit after the prisoner had given his statement to the police, which was planned the first thing in the morning. The prisoner agreed to this compromise and dropped the claim. In the case No. R-14/2001 the prisoner was remanded to custody on 17th April after having imported illegally 2700 ecstasy tablets to Iceland. On the 23rd April the prisoner filed a complaint regarding the prohibition on receiving visitors whereas he wished to see his girlfriend. On 26th April the case was submitted to a judge. The police claimed in court that the investigation was still in the early phase, further interrogations over the prisoner were still to take place and interrogations of others connected to the case including his girlfriend. Therefore it would be necessary for the investigation that the prohibition of receiving visitors was maintained for a little while longer. In the judge's verdict, dated on that same day, the prisoners request of a visit by his girlfriend under surveillance was denied on the grounds that it could impair the investigation. In the Case of the Supreme Court No. 1997:3239 from 13th November '97, the Supreme Court came to the conclusion that there was no grounds for keeping the prisoner in solitary confinement, a prohibition on receiving visitors (which had partly been lifted), a prohibition on making or receiving telephone calls, censorship of letters and a prohibition on access to the media, which the prisoner had been sentenced to at 3rd October, since the investigation by the police had been declared complete and the case files sent to the Public Prosecutor. The fact that another remand prisoner was also being charged in the same case did not justify the almost complete isolation whereas other measures were available to insure that there would not be any contact between the two prisoners. The district court judge had in his decision released the prohibition on access to the media.

71. In the light of the foregoing, the Government of Iceland considers that Icelandic legislation guarantees that the narrow authorisation permitting solitary confinement is employed in moderation, and that the evidence shows that this is in fact the case. In addition, the Government of Iceland considers that the interests of those who are subjected to detention in solitary confinement are fully guaranteed under the present legislation, as they are able to refer a decision on solitary confinement to a judge at any stage. Thus, the government believes that there is no need to change the present arrangement.

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

72. Reference is made to the discussion of Article 15 of the Convention in paragraphs 141-144 of Iceland's Initial Report. This examines the two main principles of Icelandic criminal procedure: firstly, the free evaluation by judges of the evidence brought forth in a criminal case and secondly the direct introduction of evidence. In judicial proceedings, Icelandic legislation does not expressly prohibit the invocation

in evidence of a statement that turns out to have been obtained by torture. The free evaluation of the evidence by the judge is the general rule. Therefore, procedural law neither prohibits the introduction of certain evidence, or provides for legally prescribed assessment of proof in certain situations. In the opinion of the Icelandic Government, Icelandic law concerning evidence in criminal cases ensures that a person can not be convicted on the basis of a confession if it is established that it was obtained by torture. Therefore it is the opinion of the Icelandic Government that there is no need to make any amendments to the law to explicitly exclude any evidence obtained by torture. It shall also be stressed that there has never been a case before the courts where it has been asserted that a prisoner's statement has been obtained by torture.