



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

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## Committee against Torture Seventy-third session

### Summary record of the 1882nd meeting

Held at the Palais Wilson, Geneva, on Thursday, 21 April 2022, at 3 p.m.

*Chair:* Mr. Heller

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*The meeting was called to order at 3.05 p.m.*

**Consideration of reports submitted by States parties under article 19 of the Convention** *(continued)*

*Fourth periodic report of Iceland (continued)* (CAT/C/ISL/4; CAT/C/ISL/Q/4)

1. *At the invitation of the Chair, the delegation of Iceland joined the meeting.*
2. **Ms. Bjarnadóttir** (Iceland) said that the Office of the Parliamentary Ombudsman had been given additional funding to ensure that it would be in a position to fulfil its mandate as the country's national mechanism for the prevention of torture. Since late October 2018, the Ombudsman had made nine visits to places of detention, including a prison, other detention facilities, psychiatric wards and a treatment centre for juveniles; each visit had culminated in the preparation of an extensive report. The Ombudsman had been able to visit most of the country's prisons and other places of detention, so it could not be said that the Office was either underfunded or understaffed.
3. Although many of the recommendations made by the Ombudsman were intended for the institutions he visited, government ministries and other bodies had worked together in follow-up to those recommendations. The Ministry of Justice, for example, had set up a working group, including representatives of the law enforcement authorities, to help draw up rules on police custody and ensure that people who had been arrested were given a medical examination before they were incarcerated, as had been recommended by the Ombudsman after his April 2019 visit to the custody facilities of the central police station in Reykjavik. In follow-up to other recommendations made by the Ombudsman, the Ministry was also developing rules on the use of force by prison guards.
4. The comprehensive review of the Act on Legal Competence would respond to recommendations made by the Ombudsman following his visit to the psychiatric facilities of the hospital at Kleppur in October 2018. The 2015 amendments to the Act provided, inter alia, for the extension of periods of involuntary hospitalization, thereby enabling the authorities to take measures less drastic than depriving a person of his or her legal competence entirely in the event that further treatment was required. Additional amendments to the Act were still needed, however, and the Ministry of Justice was working with the country's lawmakers to determine what steps to take next as part of the ongoing overhaul of the Act.
5. **Ms. Steinsdóttir** (Iceland) said that the Government's plans to act on the recommendations made by the Parliamentary Ombudsman after his visits to the psychiatric facilities at two of the country's hospitals would lead to further improvements to health-care services. Although the Ombudsman had found no evidence that patients were subjected to inhumane or degrading treatment, his visit reports had shed light on problems relating to the legal basis for their involuntary admission to psychiatric wards. As a result, the Ministry of Health had begun reviewing the Patients' Rights Act. Once the amendments proposed by the Ministry were made law, the Act would contain definitions of the terms "involuntary measure" and "distance monitoring", all treatment measures would have to be documented and provision would be made for the right of appeal or complaint. The aim of the proposed amendments was to clarify the relevant legal framework, not to make it easier to commit a person to a psychiatric facility.
6. The Ministry of Health planned to instruct the administrators of Landspítali, the national university hospital, which the Ombudsman had visited in September 2021, to continue making efforts to draw a clearer line between therapeutic and security measures. In addition, the Ministry of Health, prompted by another recommendation of the Ombudsman, had made plans to improve the hospital's outdoor facilities. Landspítali, as recommended, was in the process of reviewing the information on complaints procedures.
7. Provisions to ensure that steps were taken in follow-up to the recommendations just described had been included in the bill that the Minister of Health had twice submitted to the parliament, to no avail. A working group for consultations on the bill would be set up with a view to increasing the likelihood of the bill's being made law in the near future.

8. The Ombudsman had touched on strategies for de-escalation in cases where patients become a threat to themselves or others. He had not, however, noted any need for improvements in that regard.

9. **Ms. Thórisdóttir** (Iceland) said that, when the bill that would clarify the legal framework for involuntary psychiatric care became law, there would be clearer criteria for determining what security measures could be taken in the case of people who had committed crimes but had been acquitted because of their lack of legal capacity. The bill also provided for means of appealing those measures, regular reviews of the measures, a codified set of patients' rights and the monitoring of facilities housing patients in involuntary care. Construction of specially designed halfway housing for patients who were either in recovery or needed treatment different from that provided in psychiatric wards could begin once the necessary local plans had been made.

10. The National Agency for Children and Families had taken measures in response to comments made by the Ombudsman in the wake of his visit to Stuðlar, an emergency unit for minors, and intended to make other changes to better ensure the rights of children placed in the unit and in other treatment centres operated by the Agency. Rules for the placement of children in Stuðlar had been updated to reflect the Ombudsman's recommendations, and a special booklet, which included information on complaints procedures and other matters relevant to placement in the emergency unit, had been produced. Ways of making Stuðlar and its environment more child-friendly were being sought, and children in the unit had been given access to a greater variety of forms of entertainment.

11. A comprehensive review of the Child Protection Act, informed by the Ombudsman's recommendations, was under way. The review was expected to be complete by the third quarter of 2025.

12. **Ms. Sverrisdóttir** (Iceland) said that 871 people had applied for asylum in Iceland in 2021 and 1,226 in 2022. In all, 526 had been granted protection in 2021 and 134 in the first two months of 2022. The future of the proposed amendments to the Foreign Nationals Act was unclear. In any event, Iceland observed the principle of non-refoulement, and the amendments would not lead to any changes either in that respect or in respect of the need for a thorough individual assessment of each applicant's case.

13. Rejected applicants would be allowed to have their cases re-examined if new information came to light. The proposed procedure for such "repeat applications" took the relevant European minimum standards directive into account. Appeals would be filed automatically for applicants who, having been granted international protection in another country, had their asylum applications rejected by the Icelandic authorities. In other cases, appeals, which had suspensive effect, had to be filed within 15 days. Only when an applicant came from a safe country of origin and the application was considered manifestly unfounded would an appeal have to be filed within five days.

14. The Immigration and Asylum Appeals Board was an independent body with seven members appointed for five-year terms by the Minister of Justice. Three of the seven, however, were nominees put forward by the University of Iceland Institute of Human Rights and the Icelandic Human Rights Centre.

15. All asylum applicants had the right to a spokesperson – a lawyer with the relevant expertise – and, starting on 1 May 2022, they would be provided with legal aid before both the Directorate of Immigration and the Appeals Board. A person who was precluded from being granted protection but could not be returned to his or her country of origin was given a renewable temporary residence permit, usually valid for six months. One person had renewed such a permit 10 times.

16. **Ms. Thórisdóttir** (Iceland) said that the child protection services were always called in when an unaccompanied minor applied for asylum. Reception centres for unaccompanied minors had not opened because very few such minors, almost all of whom were 16- or 17-year-old boys, arrived in Iceland.

17. **Ms. Bjarnadóttir** (Iceland) said that cases of harassment and other forms of inappropriate conduct in the police force were taken very seriously. In 2014, the National Police Commissioner had set up a council, which members of the force could contact directly,

to address complaints concerning discrimination, harassment, gender-based violence and bullying. Clear procedures for handling such complaints had been established in 2015.

18. From 2014 to 2020, the council had received a total of 24 complaints, 17 of which had related to general harassment or bullying and 7 to gender-based and/or sexual harassment. The outcome of the council's deliberations was not made public. Employees of the police force were offered, at no charge, up to 10 hours a year of consultations with health-care professionals, psychologists and psychiatrists in particular.

19. Additional research into the work culture of the police, which would build on research done in 2013, was set to commence. Of the country's 10 police commissioners, 5, including the National Police Commissioner, were women, and in the period 2018–2021, more women than men had graduated from the police academy, which had been a university-level institution since 2016.

20. The activities of the police supervisory committee were funded by the Ministry of Justice. Members of the public could submit complaints to the committee directly; no other avenues first needed to be exhausted. The chair of the committee, which was composed of three experienced lawyers, was nominated by the Minister of Justice, while the two other members were nominated by the Icelandic Bar Association and the Icelandic Human Rights Centre respectively. Since 2020, the committee had had expanded powers, including the power to issue an opinion on alleged abuse or criminal conduct. All cases where a person died or suffered serious injuries while in police custody continued to be automatically referred to the District Prosecutor's Office.

21. The police supervisory committee had received around 100 complaints a year since 2017. For the period 2017–2019, there had been a total of 30 allegations of inhumane or degrading treatment. Charges had ultimately been filed in two of those cases.

22. Prisoners could submit complaints to the committee if the complaint involved a police officer. Otherwise, prisons, where the use of force was authorized in some circumstances, had their own complaints procedures. Prisoners were entitled to formal responses to their complaints.

23. People who were arrested had the right to contact a friend or family member, although the exercise of that right could be suspended if there was reason to believe, as stated in writing by a law enforcement official not directly involved in the case, that it would hamper an investigation. In principle, recordings were made of all interrogations.

24. **Ms. Steinsdóttir** (Iceland) said that a particular focus of the Government's response to the coronavirus disease (COVID-19) pandemic had been to ensure the continuity of services for vulnerable groups. The welfare system had been boosted, and targeted initiatives, including campaigns in various languages, had been taken to address the increased risk of violence against women and children. The public mental health strategies had also focused on vulnerable groups, such as older persons, children and people in need of hospitalization. Schools, from preschool to the end of compulsory education, had remained open, while upper secondary and tertiary education establishments had continued to operate, albeit remotely at times. All social and health-care institutions and nursing homes had remained operational, with some limitations on visits and outdoor activities. While special care had been taken to prevent COVID-19 outbreaks in prisons, the impact of the restrictions on the mental health of prisoners had been mitigated, for example by increasing their interactions with loved ones through the use of telecommunications.

25. **Ms. Gísladóttir** (Iceland) said that the Gender Autonomy Act of 2019 clearly prohibited changes to the genitals, sex glands or other sex characteristics of persons over the age of 16 years without their written consent. Amendments had been adopted in 2020 to prohibit all medically unnecessary procedures on intersex children. Medically unnecessary changes to the sex characteristics of older children could be made only with their informed consent and that of their guardians and a special committee of experts. Such a committee had been established at Landspítali to provide tailored information, counselling and treatment to patients and their relatives. A comprehensive anti-discrimination bill covering several grounds for discrimination, such as sex characteristics, as well as proposed amendments to

the Criminal Code to expand protection against hate speech, including against intersex persons, had recently been submitted to the parliament.

26. **Ms. Thórisdóttir** (Iceland) said that services for victims of violence were available to all, including migrant women. However, there were various measures with a special focus on migrants. For instance, a counselling centre for immigrants had been opened in 2020 to address all types of questions. Its services were free and confidential, its staff spoke several languages and telephonic interpretation services were available. In addition, the website of the 112 emergency helpline had become a multilingual information hub for matters relating to violence, and emergency services were accessible via online chat, including in additional languages where necessary. There was also a booklet on various immigrant rights available in print form and online in multiple languages. Women's shelters were open to victims of domestic violence, rape or trafficking, and there was a halfway house comprising 18 low-rent units for women and their children who could not return home after their stay at a shelter. Furthermore, a recent parliamentary resolution concerning a four-year action plan on immigration included measures to raise awareness among the immigrant population of the resources available to victims of abuse.

27. A special action team of the Ministry of Social Affairs and Labour had issued recommendations to improve the prevention of violence against persons with disabilities and enhance services for victims. Some of the recommendations had already been implemented, such as making the national emergency number accessible for persons with hearing impairments or other difficulties in calling for help; tasking Tabú, a feminist movement, with advising non-governmental organizations on how to provide support to victims of violence; informing persons with disabilities of their rights and how to seek help in case of violations; and providing training to young people with disabilities on harassment and sexual and gender-based violence. The Minister of Justice had recently presented a bill to the parliament aimed at better safeguarding the rights of victims of sexual offences and persons with disabilities during police investigations and court proceedings.

28. **Ms. Gísladóttir** (Iceland) said that Icelandic law contained several provisions on mandatory screening of professionals working with children. For example, persons convicted of a sexual offence were barred from working in schools, for the child protection authorities and in homes or institutions covered by the Child Protection Act. When applicants had been convicted of other offences, a risk assessment was carried out taking into account the nature of the offence and the work to be performed. Administrators of sports and recreation centres, schools and social services institutions had the right to request criminal background checks on applicants. Persons tasked with defending the rights of unaccompanied minors could not have a criminal record of any kind.

29. **Ms. Thórisdóttir** (Iceland) said that labour law applied to all workers, regardless of nationality and that all workers could benefit from the assistance of trade unions. The Labour Directorate was responsible for ensuring that workers hired through temporary employment agencies and posted workers were paid their wages in accordance with collective bargaining agreements. In the event that such workers, particularly those in the construction and civil engineering fields, were not paid, liability rested with the business at the top of the chain. Lastly, steps were being taken to shut down housing for foreign workers that had been found to be unsafe.

30. **Ms. Kolsöe** (Iceland) said that, while Iceland had no military, its coast guard performed basic military functions. Its personnel were well trained and bound by a strict code of conduct. Members of the coast guard and national police who were deployed overseas under the auspices of the European Border and Coast Guard Agency (Frontex) were bound by the Frontex code of conduct and underwent additional training by that agency. Deportations from Iceland were conducted by police officers who had completed escort leader training and training in the treatment of individuals in vulnerable situations, including unaccompanied minors. The Ministry of Foreign Affairs was responsible for the deployment of civilian specialists, specifically in the areas of public information and hybrid or cyber security threats, on missions of the North Atlantic Treaty Organization (NATO). Such specialists were currently on mission in Latvia, Estonia, Lithuania, Finland and Belgium, and one member of the coast guard was involved in maritime control in the United Kingdom. The

Ministry also seconded staff to the United Nations; those individuals were bound by the Organization's code of conduct and were required to complete its mandatory training.

31. **Ms. Bjarnadóttir** (Iceland) said that Iceland had not received any extradition requests with regard to individuals suspected of having committed torture.

32. **Mr. Liu** (Country Rapporteur) said that torture might be covered in national legislation, but it would be important to adopt a definition in criminal law that was in line with the most recent international instruments and covered all forms of the offence. Similarly, all forms of human trafficking, for whatever purpose, should be addressed in Icelandic law. While he welcomed the assertion that the national preventive mechanism was sufficiently resourced and staffed, it was vital for the Government to facilitate the mechanism's monitoring work and take account of its recommendations.

33. The State party should be mindful of how many pretrial detainees were placed in solitary confinement. He would appreciate up-to-date statistics on the percentage of requests for placement in solitary confinement that were approved by judges. He would also welcome information on whether persons being placed in solitary confinement or security cells for misconduct automatically underwent a prior medical examination. If it was true that persons with intellectual or psychosocial disabilities were placed in solitary confinement, he would like to know how their rights were safeguarded, on the basis of what criteria the decision to isolate rather than hospitalize them was taken and what their conditions of detention in solitary confinement were.

34. Lastly, it would be helpful to receive information on the number and outcome of prosecutions in cases of sexual or gender-based violence and on any specific training provided to police officers, prosecutors and judges on the new consent-based definition of rape and the treatment of victims of gender-based violence.

35. **Mr. Tuzmukhamedov** (Country Rapporteur) said that he would welcome the delegation's comments on why Icelandic legislation on the duration of solitary confinement remained at variance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). He was interested in learning what pre-deployment training members of the Iceland Crisis Response Unit received. It would be useful to know how many cases of excessive use of force had been referred to the prosecutorial authorities by the police supervisory committee, what the outcome of those cases had been, and what redress and compensation had been provided to victims. It was still not clear to him whether the Convention was ever invoked in the courts.

36. **Ms. Maeda** said that, whereas the 1951 Convention relating to the Status of Refugees provided for an exception to the prohibition against refoulement in cases where a refugee constituted a danger to national security or public order, the Convention against Torture did not. She therefore wished to know whether the Foreign Nationals Act complied with the absolute prohibition against refoulement under the Convention against Torture and how the article on the prohibition of expulsion or return ("refoulement") of the 1951 Convention was interpreted.

37. Given that the Immigration and Asylum Appeals Board came under the Ministry of Justice, she wondered whether it was an administrative body. It would be useful to know how many of the asylum applications filed had been brought before the Board and reviewed, and how many had been approved, since the establishment of the body. She would appreciate more information on the support provided to the seven-member Board. It would be useful to have more statistical data on the appeals against decisions to reject asylum applications. She would be grateful to hear about any pending litigation over the infringement of the right of appeal under the appeals procedure.

38. **Mr. Buchwald**, referring to an English version of the Foreign Nationals Act, said that, under the law, a foreign national must not be sent to a region where he or she had reason to fear persecution or where the foreign national was in imminent danger of being killed or subjected to inhumane or degrading treatment. He was concerned about the inclusion of the word "imminent", which was not language used in the Convention, and would welcome clarification of the term.

39. He understood that the Parliamentary Ombudsman was a creature of the legislative branch. He wondered whether subordination to the legislature affected the ability of the Ombudsman to do all the things that needed to be done, particularly in the light of the very high rate of approval by judges of requests for placement in solitary confinement, as had been mentioned by Mr. Liu. He was curious to know whether, for example, there were any obstacles to the Ombudsman speaking to judges.

40. Lastly, various articles of the Code of Criminal Procedure listed the measures that investigators were prohibited from taking to obtain evidence. However, the Code did not specify whether information obtained from such prohibited measures could be used in court.

*The meeting was suspended at 4.50 p.m. and resumed at 5.05 p.m.*

41. **Ms. Bjarnadóttir** (Iceland) said that she agreed there was a need to review the definitions of torture and human trafficking set out in the law. Regarding human trafficking, the problem had been associated mainly with sexual exploitation. However, her Government had come to understand that a broader definition was needed, as was shown by the amendments to the General Penal Code recently introduced to bring it into line with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. She also agreed that it was important for both government officials and members of the public to be aware of the issue. Efforts had therefore been made to raise such awareness, in close cooperation with civil society.

42. Her delegation had obtained updated statistics from the capital on the solitary confinement of persons in pretrial detention. The rate of approval of requests for such confinement – between 98 and 99 per cent – was indeed very high. She wished to emphasize, however, that the requests came under strict scrutiny by judges. Unlike the Swedish Ombudsman, the Ombudsman in Iceland did not oversee the courts and was not, therefore, involved with judges.

43. Medical examinations for persons in pretrial detention were normally performed at the end of the detention. However, if there was reason to believe that an individual was in a vulnerable situation and required placement in another facility, the person concerned or his or her defence lawyer could raise the issue and the medical examination would be expedited. In cases in which it was in the best interests of the detained person to be placed in another facility, there were secure facilities in the emergency psychiatric wards that were specially equipped for individuals who could not be around other patients, for example if they posed a potential danger to themselves or others.

44. The authorities were aware of the need to train judges and law enforcement personnel on the new definition of rape. One university in the north of the country was providing such training to police officers and prosecutors. Distance learning was also offered so that the entire country was covered. There was also a police training centre attached to the Office of the National Police Commissioner, which provided further training to law enforcement officials. Emphasis had been placed on gender-based violence, human trafficking, sexual offences and domestic violence. The training of judges was provided separately by the judges' administrative body. Her delegation would submit in writing the requested statistics on gender-based violence and the complaints of excessive use of force filed with the police supervisory committee.

45. Her Government had begun to revise the legislation regulating the maximum length of solitary confinement during pretrial detention. Although in serious cases prisoners could be placed in solitary confinement for a longer period than that provided for under the Nelson Mandela Rules, no one could stay in pretrial detention for more than 12 weeks, as that was the time limit for an indictment to be issued. Once an indictment was handed down, the investigation was completed. As solitary confinement could be imposed only in the interests of the investigation, it could not exceed 12 weeks, even though that was not explicitly stated in the law. Twelve weeks' solitary confinement was thus the absolute maximum and 60 days had been the longest period imposed to date.

46. She did not have data on the number of court cases in which the Convention had been invoked. Under the country's dualistic legal system, the courts could not base their decisions solely on the Convention but could rather use it as an aid to interpret national law.

47. The Immigration and Asylum Appeals Board was an independent quasi-judicial administrative body. Members were appointed for five-year terms by the Minister of Justice, who did not have the power to dismiss them during the term. The Ministry could not give orders on how to deal with individual cases. After receiving a decision from the Board, the applicant could, of course, go to court. Although the Board consisted of seven members, it had a much larger staff, who prepared the cases for the members.

48. **Ms. Sverrisdóttir** (Iceland) said that her delegation would submit written information on litigation over the infringement of the right of appeal under the appeals procedure. The time limits for bringing appeals before the Immigration and Asylum Appeals Board had not posed a problem, but her delegation would provide the Committee with the relevant statistics in writing. Concerning the reference to "imminent danger" in the English translation of the Foreign Nationals Act, the original provided for more rights than could be understood from the English version. A more accurate translation might read, "where there is a high likelihood that a foreign national would be in danger of being killed or subjected to inhumane or degrading treatment". The English version was based on wording of the European Court of Human Rights.

49. **Ms. Kolsöe** (Iceland) said that the name "Iceland Crisis Response Unit" did not accurately reflect the unit's role and that the Ministry of Foreign Affairs was moving away from that terminology. Since early 2019, positions involving secondment to NATO and the United Nations respectively had been managed by two separate directorates. United Nations functions not related to peacekeeping were handled by the directorate responsible for international development cooperation. The Government no longer relied on a roster to fill those positions, which were now publicly advertised. Typically, a one-year appointment was involved, rather than a short rotation as in the past. NATO functions were dealt with by the directorate in charge of security and defence. Some of those positions were similarly advertised. As the Government was trying to increase the capacity of the Ministry of Foreign Affairs, some of the secondments entailed the recruitment of external candidates.

50. **Mr. Aspelund** (Iceland) said that the review would serve to further strengthen implementation of the Convention in Iceland. Iceland remained firmly committed to the promotion and protection of human rights and would strive to find effective solutions and responses as new human rights challenges arose.

*The meeting rose at 5.30 p.m.*