

# **Report**

of the Minister of Social Affairs and Social Security, Ásta R. Jóhannesdóttir, on the Action Plan  
against Human Trafficking

(Presented before the Althingi in its 136<sup>th</sup> legislative session 2008–2009.)

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This report contains the first Government Action Plan against trafficking in human beings, as well as an explanatory statement, which the Government of Iceland approved at a cabinet meeting on 17 March 2009. The Action Plan is the result of a Government resolution from 7 December 2007, which initiated the production of the Action Plan following the recommendations of the Minister of Social Affairs and the Minister of Justice. The Minister of Social Affairs and Social Security appointed a working group in January 2008 that had the role of discussing the ways and means of preparing and implementing a comprehensive Action Plan against human trafficking in Iceland. The working group submitted its recommendations to the Minister of Social Affairs and Social Security on 16 March 2009, and the Minister then presented the recommendations to the Government the following day for approval.

The objective of the Action Plan is to enhance the coordination of actions that are necessary in order to prevent human trafficking here in Iceland, and to further study trafficking in human beings. Furthermore, it specifies actions that are aimed at prevention and education regarding this matter and ensure that aid and protection to victims is provided. There is also an emphasis placed on actions that aim at facilitating the prosecution of the perpetrators.

At the same time, the intention is to initiate necessary legislative amendments, so that the United Nations 2000 Convention against Transnational Organised Crime and its Protocol on Human Trafficking, the Council of Europe 2005 Convention on Action against Human Trafficking, and the Council of Europe 2007 Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse may be ratified, and actions taken to implement these conventions. In addition, bills will be introduced with the goal of criminalising the demand for prostitution and deleting the exemption provision in paragraph 4, Article 4 of Act No. 85/2007 to operate strip clubs.

The Minister of Social Affairs and Social Security will establish a specialist and co-ordination team to supervise matters regarding human trafficking in Iceland and ensure that the alleged victims of human trafficking, including children, are provided with assistance, a safe refuge and protection. The members of such a team will include non-governmental associations that provide aid to the victims of violence, the police and representatives from the relevant ministries. The tasks of this team include providing training for professionals and civil servants who are involved in matters relating to trafficking in persons, an educational campaign with the goal of preventing young males from becoming consumers in the sex market, supervision of researches and the registration of cases of human trafficking. Also, a number of actions are aimed at increasing police specialisation, so that the police will be better prepared to conduct investigations into trafficking in persons, prostitution and child pornography. Finally, it is expected that a code of conduct will be approved for the Government Offices and ministerial agencies that will, among other things, declare that any purchase by any Icelandic Government representative of any kind of sex service will not be tolerated.

The Action Plan is in effect until end of 2012, but it will undergo revision two years after its approval, following an evaluation of the results.

## ACTIONS

This Action Plan is divided into nine chapters. These are:

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

### **1. Ratification of international conventions and harmonisation of Icelandic legislation.**

*Goal: That the United Nations 2000 Convention against Transnational Organised Crime and its Protocol on Human Trafficking, the Council of Europe 2005 Convention on Action against Human Trafficking and the Council of Europe 2007 Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse will be ratified.*

**Action 1: That the preparations by the relevant ministries towards the ratification of United Nations 2000 Convention against Transnational Organised Crime and its Protocol on Human Trafficking, the Council of Europe 2005 Convention on Action against Human Trafficking and the Council of Europe 2007 Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse will be concluded. To the degree that ratification calls for legislative amendments such legislative bills will be presented.**

The Government Action Plan against Human Trafficking requires that the United Nations 2000 Convention on Transnational and Organised Crime and its so-called Palermo Protocol<sup>1</sup> and the Council of Europe Convention on Action against Human Trafficking<sup>2</sup> are ratified in Iceland. These preparations have been underway for some time, and the Minister of Justice presented a bill during the 135<sup>th</sup> legislative assembly in 2007–2008 for the amendment of the Penal Code No. 19/1940, including to harmonise the definition of the concept ‘human trafficking’ in the Penal Code with the contents of these conventions. The bill was not passed during the legislative assembly, but it was re-introduced in the 136<sup>th</sup> legislative assembly and is presently under consideration by the Parliamentary General Committee. It is evident that a range of legislation needs to be harmonised with the conventions so that these may be ratified, such as, for instance, the Act on Foreigners No. 96/2002 and the Municipalities’ Social Services Act No. 40/1991. Preparations must also be commenced for the ratification of the 2007 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse<sup>3</sup> and the European Council Convention on Action against Gender-Based Violence now being worked on, which is wholeheartedly supported by the Icelandic Government. The first goal of this Action Plan takes this into account.

Responsible parties: The Ministry of Justice, the Ministry of Social Affairs and Social Security.

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<sup>1</sup> The Convention against Transnational Organized Crime (UN, 2000a) and Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN, 2000b).

<sup>2</sup> Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw 16 May 2005.

<sup>3</sup> Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, Lanzarote 25 October 2007.

## **2. Specialist and co-ordination team and the supervision of affairs concerning human trafficking.**

*Goal: Domestic collaboration against human trafficking should be co-ordinated and a formal supervisory system should be established for these issues.*

### **Action 2: A team of relevant government ministries, agencies and non-governmental organisations with an overview of human trafficking issues in Iceland should be established to supervise these affairs.**

In order to ensure a comprehensive overview and knowledge of human trafficking affairs in Iceland, a specialist and co-ordination team should be established, which will be composed of the representatives of those entities working in this field, such as the relevant government ministries, police, institutions and NGOs, including Stígamót and the Kvennaathvarf, safe shelter for women and children. The role of the team should be to follow up on signs of human trafficking, to identify possible victims according to recognised checklists issued by the team, and to grant the victims a recognised position as such, to ensure protection and assistance for them, collect information and carry out educational activities with respect to the issues of human trafficking. Such a team would furthermore provide consultation to the government authorities in this field and would supervise the implementation of the Action Plan against Human Trafficking. The team would operate as a form of experimental project, and a revision would be conducted after three years to decide if this form should be turned into law.

Responsible party: The Ministry of Social Affairs and Social Security.

### **Action 3: An emergency team, capable of rendering assistance to victims within a period of 24 hours, should operate within the specialist and co-ordination team on human trafficking.**

The role of this emergency team is to take the first action to assist and protect a victim of human trafficking, such as by providing emergency services, under Article 1 of Regulation on Health Services to those who are not health insured under the Act on Health Insurance and Health Services Benefits, No. 1206/2008, a safe refuge, interpreting services and legal aid. It is considered very important that anyone who is a member of the specialist and co-ordination team will be able to activate the emergency team on short notice, but for this task other parties would be summoned for collaboration, according to the circumstances of a case, at any time.

Responsible party: The Ministry of Social Affairs and Social Security.

## **3. The education of professionals and public officials.**

*Goal: That the relevant professionals and government officials should receive education concerning human trafficking, its manifestations, identification methods and assistance to victims.*

### **Action 4: A comprehensive educational programme should be prepared for professionals and for public employees who, in their work, deal with human trafficking.**

Article 10 of the European Council Convention on Actions against Human Trafficking provides for the government to ensure that professionals with knowledge of preventive work, of identifying possible victims and of methods that have a proven record of positive impact on victims are readily available<sup>4</sup>. It is therefore necessary that the proper professional groups receive education on human trafficking, its characteristics, assistance to the victims and identification methods using recognised checklists issued by the specialist and co-ordination team dealing with human trafficking. This knowledge also needs to be interdisciplinary, so that individual cases of victims can be treated in a comprehensive manner. This is particularly important because victims may come into contact with the authorities or with other parties because of other violations, for instance, with border guards or the police because of counterfeit travel documents, or with women's relief organisations because of violence. Behind all this may be concealed cases of human trafficking. It is unlikely that victims will step forward to these institutions, unless such institutions are able to introduce the support measures and the protection being offered for the individual in question.

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<sup>4</sup> Council of Europe Convention on Action against Trafficking in Human Beings, article 10 - Identification of the victims.

The target groups are the following:

- *Police, border guards and customs officers:* Education on human trafficking should be introduced in the main curriculum of the Icelandic National Police College and its management educational programmes, and it should also be a part of the re-educational and continuing education programmes of the police commissioner offices, border guards and customs officers. The education should include training in the application of recognised checklists, which ensure that suspicions of human trafficking and signs of linked crimes will be followed up by the relevant parties.
- *Prosecutors and judges:* In order to facilitate the bringing to justice of the perpetrators of human trafficking cases, it is urgent that all professional groups in the criminal justice system receive training on the nature of human trafficking cases and of the various criminal offences which the public authorities may encounter and which contain clues indicating that human trafficking may be concealed behind them. Courses should be held for public prosecutors and judges for this purpose.
- *Employees of relevant institutions:* The staff of the appropriate institutions, such as the Directorate of Immigration and the Directorate of Labour, should receive training on human trafficking and its characteristics, because possible victims of human trafficking may be found among those who have contact with these agencies. Courses should be held for the staff of these agencies to this effect.
- *Employees in healthcare services:* The experience abroad indicates that victims of human trafficking contact health professionals with many physical and mental symptoms that are indicative of post-traumatic stress disorder and long-standing sexual violation. Health professionals need to be alert to such symptoms, especially in the cases of individuals of foreign origin and/or those who are involved in sexual services. Checklists, classification codes and other guidelines that are available must be translated and localised and health personnel must receive training in applying these. Education on human trafficking must be part of the basic curriculum and the re-education of health service personnel.
- *Social service and child welfare personnel and support and treatment professionals:* In order to reach the goals of providing support and rehabilitation for the victims, it is necessary that all those who are involved in such work, i.e. the employees of social services and child welfare, treatment professionals and counsellors from women's aid organisations, receive education and training in working with the victims of human trafficking. It is particularly urgent to increase the awareness of the rights of children seeking asylum, because unaccompanied children arriving in Iceland from abroad may be the victims of human trafficking. There is a need for long-term support and specialised relief for these children, and those who are involved in this work need to be supported. Education on human trafficking should be a part of the curriculum of social-work studies, as well as part of the re-education and continuing education programme.
- *Government ministry personnel:* The employees of the foreign service and the relevant ministries that are involved with human trafficking issues, such as the Ministry of Social Affairs and Social Security, the Ministry of Health and the Ministry of Justice, should receive education on human trafficking.

Responsible party: The relevant ministries, the specialist and co-ordination team.

#### **4. Protection of victims and victim assistance.**

*Goal: The victims of human trafficking should receive the necessary health services, the proper support and protection, as well as assistance to ensure a safe return to their country of origin.*

#### **Action 5: The role of non-governmental organisations in providing the victims of human trafficking with assistance should be acknowledged and strengthened.**

It is recognised that the self-support organisations of women and victims of all kinds of violence are a very good resource of aid for victims because the support is provided on the victims' own terms, without any preconditions. The same applies to parties who provide assistance and counselling to immigrants. Such persons shall have seats in both the specialist and co-ordination team against human trafficking, as well as in the emergency team that provides first aid to the victims of human trafficking.

This role of theirs needs to be recognised by a formal agreement and by public funding. A part of the assistance to victims is ensuring that they have a safe place of residence in their country of residence or a shelter. The experience gained from shelters operated by women's non-governmental aid organisations with the support of the government is good and, moreover, these are frequently linked to sister organisations in the victims' home countries that may provide continuing shelter, support and rehabilitation if they choose to return.

Responsible party: The Ministry of Social Affairs and Social Security.

**Action 6: The victims of human trafficking should be granted a temporary residence permit for a defined reflection period in order for them to make up their minds on their future place of residence and for co-operation with the police.**

The Act on Foreigners, No. 96/2002, should be amended so that a special class of residence permits is instituted for the victims of human trafficking. A foreign person, where the police have informed the Directorate of Immigration that there are reasonable grounds to believe he/she is a victim of human trafficking, may be granted a temporary residence permit for a limited reflection period for the purpose of considering if he/she should work with the authorities to bring the perpetrators to justice. The length of the reflection period shall be similar to what is typical in neighbouring countries.

Responsible party: Ministry of Justice.

**Action 7: The victims of human trafficking should have a safe refuge and financial and social assistance during the reflection period.**

Victims shall receive social assistance in their municipality of residence, even though they are not domiciled in Iceland. The Minister of Social Affairs and Social Security should repay the municipality the expenses for the assistance, pursuant to item a of paragraph 2 of Article 15 of the Municipalities' Social Services Act No. 40/1991, provided that appropriate parties have made an assessment based on recognised checklists of whether the person in question is a victim of human trafficking or if there are reasonable grounds to believe so. The need for service and assistance would be assessed by the social workers of the local municipality in collaboration with the specialist and co-ordination team on human trafficking and, as the case may be, with other professional staff as soon as possible. Special rules should be set concerning the assistance and counselling that is provided to the victims of human trafficking by the local authorities, cf. authorisation in paragraph 1 of Article 15 of the Municipalities' Social Services Act.<sup>5</sup>

Responsible party: The Ministry of Social Affairs and Social Security.

**Action 8: The victims of human trafficking should be provided with necessary health services and psychological support during the reflection period.**

Victims of human trafficking should be provided with the necessary health services and psychological support by health centres and/or other appropriate specialists during the reflection period. The mental and physical health of the victim shall be evaluated in collaboration with the relevant health service, and the necessary service should be provided in accordance with need and all other circumstances.

The health services will assist people according to their needs. With respect to those victims of human trafficking who are nationals of states outside the European Economic Area and who have been in Iceland for less than six months, the specialist and co-ordination team will make sure that the victims of human trafficking receive emergency services pursuant to Article 1 of the regulation on the provision of health services to those who are not health insured under the Act on Health Insurance and Health Service Benefits, No. 1206/2008. In order to be able to ensure the provision of these

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<sup>5</sup> **Article 15 of the Municipalities' Social Services Act No. 40/1991, as amended, has the following wording:**

Foreign nationals who are not legally domiciled in Iceland shall, in particular circumstances, be granted financial assistance in Iceland. Assistance shall be granted by the municipality of residence following consultation with the Ministry of Social Affairs; the foreign national shall first have sought assistance from his home country. The Minister of Social Affairs may issue more detailed rules on the granting of assistance under this provision.

The State Treasury shall reimburse the municipality the cost of assistance granted to foreign nationals in the following cases:

- a. Assistance granted to foreign nationals who are not legally domiciled in Iceland (*cf.* the first paragraph of this Article).
- b. Assistance granted to foreign nationals under Articles 12-13 of this Act when they have been domiciled in Iceland for less than two years.

emergency services to the victims of human trafficking, Article 15 of Regulations No. 1206/2008 should be amended.

Responsible party: The Ministry of Health.

**Action 9: Victims of human trafficking should be assured a safe return to their country of origin as well as rehabilitation in their own environment.**

It must be ensured that a possible victim of human trafficking will never be returned back to his/her country of origin unless his/her safety in their country of origin is assured. It would be the responsibility of the specialist and co-ordination team for human trafficking, cf. Action 2, in collaboration with the social services of the local municipality where the relevant victim resides, to ensure the safe return of victims of human trafficking to their country of origin if they so wish, including any appropriate support. Special importance shall be placed on activating the co-operation of and the remedies available from the International Organization for Migration (IOM), the Icelandic Red Cross, social services authorities of the relevant states, and the sister organisations of aid organisations for victims of violence.

Responsible party: The Ministry of Social Affairs and Social Security.

**Action 10: The methods and procedures for identifying and supporting alleged victims of human trafficking under the age of 18 shall be improved.**

The condition of alleged victims of human trafficking who are children varies. This may involve children who apply for asylum, children who do not have a caretaker and/or a home, including children found in border areas without a custodian, and children who reside here in Iceland without a residence permit, e.g. children who are 'living' here in Iceland and staying with relatives. The Directorate of Immigration Rules now being drafted relating to case procedures for applicants below the age of 18 should cover the following items:

- That the supervision of cases is administered by the Ministry of Justice and must at the same time be performed in accordance with the Child Protection Act, No. 80/2002. The police and the Directorate of Immigration should always inform the relevant child protections committee without delay of such cases, and a representative from the committee must be invited to attend all conversations with the child. Furthermore, the Government Agency for Child Protection must also be informed of such cases involving a child, as well as the specialist and co-ordination team concerned with human trafficking, cf. Action 2. In the same manner, the child protection committee must inform the Directorate of Immigration and the police if such a case is first discovered by the committee. When cases emerge at the Leifur Eiríksson Air Terminal the Reykjanesbær child protection committee shall be notified thereof. The child should be placed in safe hands during the inquiry. Older children (16–17 years old) should be brought to the Fit centre, cf. the agreement between the Directorate of Immigration and Reykjanesbær concerning the care provided by Reykjanesbær, dated 9 March 2005, but younger children and children found outside the area of Reykjanesbær should be sent to temporary foster care in private homes or to an institution in accordance with the Child Protection Act.
- Inquiries into and the identification of a child and its circumstances should be performed in accordance with the Child Protection Act, and it should be ensured that the child protections committee be provided with any necessary expertise. In light of the interests of the child, the facilities at Children's House should be used according to circumstances for the taking of statements and for inquiries into cases where human trafficking is suspected. The Treasury will reimburse the local municipality for any outlays and expenses resulting from a case, cf. paragraph 5 of Article 15 of the Child Protection Act No. 80/2002.
- If a child is granted asylum or a residence permit for humanitarian reasons, the permanent foster care of the child must be finalised in accordance with the Child Protection Act. Inquiries should be made into whether any amendments to the Child Protection Act No. 80/2002 should be enacted in order to ensure the availability of foster care for unaccompanied children in Iceland.

Responsible party: The Ministry of Justice, the Ministry of Social Affairs and Social Security.

**Action 11: The safe return of alleged victims of human trafficking under the age of 18 must be ensured.**

The principal task of government authorities is to find the parents or the guardians of a child in his/her country of origin and to ensure the safe return of the child. Before a decision is made that a child is to be returned to its country of origin, it will be necessary to make inquiries into the conditions of the child in its country of origin. The collaboration of child welfare authorities and immigration authorities in Iceland and in the child's country of origin is the precondition for a safe return and reception in the country of origin, but it will be the responsibility of the child protection authorities in the country of origin to make sure that the guardians of the child are able to provide the child with acceptable protection and care. The Government Agency for Child Protection, in co-operation with the relevant child protection committee, shall carry out communications with the child protection authorities in the child's country of origin. In the event of criminal conduct or any suspicion in this respect, the police authorities of both countries shall be involved in the case.

Responsible party: The Ministry of Justice, the Ministry of Social Affairs and Social Security.

**5. Police preparations and inquiries into alleged trafficking in humans.**

*Goal: Perpetrators in human trafficking cases should be prosecuted.*

**Action 12: Rules of procedure for the police.**

The police should establish rules of procedure for contacting and dealing with alleged victims of human trafficking that are also intended to ensure that alleged victims are informed of the remedies available to help them. The utmost efforts must be made to summon the representatives of relief organisations who are members of the specialist and co-ordination team, cf. Action 2, for assistance as soon as possible. Co-operation between the police and private entities specialising in contacting and assisting the victims of sexual crimes and human trafficking should be strengthened. Such co-operation is vital, including for increasing the likelihood of the victims being ready to assist the authorities by revealing alleged incidents of human trafficking, as well as for the support of the victims by all available means.

Responsible party: Ministry of Justice.

**Action 13: The police powers of proactive investigation should be assessed and an emphasis should be placed on fully utilising investigative powers found in criminal procedure.**

In connection with the investigation and mapping of human trafficking cases here in Iceland and links with foreign organised crime, the need by the police for special powers of proactive criminal investigation should be assessed. Such powers would increase the police's ability to map the scope of such activities and the operations of individual persons, and at the same time create a better foundation for prosecuting the parties who organise and are behind organised criminal activity such as human trafficking. Importance is also placed on the police fully utilising the powers of investigation that are already available to them and that are also applied in the investigation of drug crimes.

Responsible party: Ministry of Justice.

**Action 14: Investigation of human trafficking cases and surveillance of the scene in connection with human trafficking and organised prostitution should be administered by specialised police teams.**

Specialisation and training within the police should be increased for the purposes of surveillance and investigation of cases that are linked to prostitution and human trafficking. A specialised group of criminal investigators carrying out surveillance in connection with human trafficking and organised prostitution should be established for the purpose of reducing the level of prostitution activities and to collect information for the investigation of bigger criminal cases. A model for such work should be acquired from the surveillance group of the drug investigation division of the police in the greater Reykjavík area. At the same time, specialised criminal investigators should operate within the sexual crime division of the police, which should carry out investigations in individual cases of human trafficking. Collaboration between these must be ensured.

Responsible party: Ministry of Justice.



**Action 15: Victims in human trafficking cases shall be appointed with legal counsel and shall receive witness protection and anonymity.**

It serves both the interests of police investigations and the interests involved in providing the victims of human trafficking with protection and assistance that the victims should also be assured of assistance from the criminal justice system in the processing of human trafficking cases. Such assistance is vital in order to increase the likelihood of the victims being ready to assist the authorities by revealing alleged incidents of human trafficking. In this regard, those who witness against perpetrators, and other persons who may receive threats from the perpetrator should also be provided with protection.

The Act on Criminal Procedure No. 88/2008 was amended so that now the police are required to appoint a legal counsel for the victim, in compliance, as usual, with the victim's request; including in the case of human trafficking and when it may be assumed that the victim has suffered considerable physical injury or injury to mental health as a result of the criminal act.

In recent years Iceland has participated in a collective Nordic witness protection programme, which was established in 2001. According to this, the Nordic countries now have the opportunity to send witnesses to other Nordic countries and to receive witnesses from other Nordic countries with respect to the most serious types of crimes, such as terrorist activities and organised criminal activity, including human trafficking. Such protection includes the relocation of witnesses, and the person involved receives new personal identification (name, ID number, etc.) and information regarding the person in question, and his/her place of residence is kept secret.

Responsible party: Ministry of Justice.

**6. Actions against demand in the prostitution and pornography industry.**

*Goal: Human trafficking should be prevented by counteracting demand in the prostitution and pornography industry.*

**Action 16: A bill should be introduced that calls for the criminalisation of the purchasing of prostitution.**

It is important that the legislature conveys a clear message to society at large that prostitution and any kind of sex services will be subject to our definition of sexual violence and will equate the buyers of prostitution with other perpetrators of sexual violence.<sup>6</sup> By doing this a reference is also made to the basic principle that the human body should not be a commodity for sale, where the buyer can purchase sex services on account of a stronger financial position and leverage, and that the responsibility for the exchange rests with those who maintain the demand. In this way we would be following the same path taken by those neighbouring countries that have already criminalised prostitution. It can be argued that prohibiting the purchasing of sexual services may assist the police with finding those who are organising or acting as intermediaries of prostitution, provided that it might be so arranged that the buyers would receive reduced punishment if they provided information on the organisers of prostitution.

Responsible party: Prime Minister's Office.

**Action 17: That a bill be introduced amending the Act on Restaurants, Accommodation Establishments and Entertainment No. 85/2007, which will delete the exemption provision of Article 4 of the Act.**

The principal purpose of paragraph 4 of Article 4 of Act No. 85/2007 is to prohibit any kind of nude shows in places of entertainment and to prevent such places from benefiting from the nudity of employees. It may be assumed that this was the unequivocal will of the legislature, rather than that the exemption provision would become in reality the main principle. The local governments of two of the largest municipalities in Iceland have encouraged the legislative branch of the government to eliminate any doubts with respect to the law in this matter.

Responsible party: Ministry of Justice.

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<sup>6</sup> European Women's Lobby has defined sexual services as violence against women. See O'Connor and Healy. The Links between Prostitution and Sex Trafficking. A Briefing Handbook. Prepared for the Coalition Against Trafficking in Women (Joint project between Swedish and United States authorities) and European Women's Lobby, 2006.

**Action 18: An educational campaign which is directed at the buyers of prostitution services, pornography and any other kind of sex service should be launched.**

The buyers of sexual services typically put forth the excuse that prostitutes, pornographic actors, strippers and even children who have been lured into participating in the production of child pornography participate in their activities freely and willingly, and therefore buying these services is justified. The production and use of child pornography is under all circumstances criminal, but it is likely that a portion of the adults in this market are the victims of human trafficking in some form. It is important that the buyers become informed of the connection between human trafficking, pornography and sex services. In particular, it is important that young men receive instruction before they become buyers in this market. Similar educational campaigns have been launched in our neighbouring countries, with the result that men have increasingly stepped forward and declared publicly their disgust and aversion for the sex market.

Responsible party: The Ministry of Social Affairs and Social Security.

**Action 19: The fight against the spread of child pornography should be increased.**

It is important that the police continue to strengthen their action against the spread of child pornography. The latest technical methods that are of use in this fight should be studied so that these crimes may be prevented and those who perpetrate such crimes are caught. The Icelandic police should be an active participant in the joint work of the police in the Nordic countries in this field, in accordance with joint recommendations from the national police commissioners in the Nordic countries which the ministers of justice of these countries have approved. The co-operation of the Nordic national police commissioners will be aimed at establishing a common database, working together on technological advances, establishing a channel for tip-offs in each country and, finally, participating in international police co-operation and investigations into crimes committed outside the Nordic countries. Furthermore, the office of the National Commissioner of the Icelandic Police should take over the tip-off line of Barnaheill organisation (Save the Children Iceland) and strengthen the co-operation with that organisation in this field.

Responsible party: Ministry of Justice.

*Goal: Surveillance of organised prostitution should be increased, and those who facilitate, organise or benefit from such prostitution should be prosecuted.*

**Action 20: The surveillance and investigation of organisers, advertisers and others who benefit directly or indirectly from the prostitution of others should be increased with the purpose of prosecuting these parties.**

Human trafficking cannot exist unless there is a market for prostitution, pornography and any kind of sex services, including child pornography. The western market for the victims of human trafficking is to a great extent the sex market in all of its forms, and the buyers in such a market can be found in Iceland. One of the principal objectives of human traffickers, whether they are international criminal groups or individual human traffickers inside states, is to supply the demand in this market. It is likely that in Iceland this mainly takes place through organised visits by prostitutes, with the profits ending up in the hands of the organisers. The fight against human trafficking in Iceland cannot, therefore, be separated from the fight against the sex market, including prostitution. The fact that the buying of prostitution services was not criminalised by the amendments made to the Penal Code in 2007 should not overshadow the fact that it is criminal to encourage the prostitution of others, to advertise such activity and to reap any kind of benefit there from, such as housing rent and advertising payments, including Internet advertising. These crimes should be investigated and prosecuted.

Responsible party: Ministry of Justice.

## **7. International co-operation.**

*Goal: The Icelandic authorities should work systematically in the international arena towards preventing victims becoming dependent on human traffickers.*

**Action 21: The Icelandic authorities should participate actively in international co-operation and policy making that aims at preventing victims from becoming dependent on human traffickers.**

The Icelandic authorities have for many years actively participated in the work of the United Nations, the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe in actions against human trafficking, including participation in the drafting of resolutions. The government will continue the fight against human trafficking in the international arena. During 2009, when Iceland chairs the Nordic Council of Ministers, actions against human trafficking is one of the focus issues under the umbrella of the co-operation of the neighbouring states and their response to globalisation. Furthermore, Iceland will continue to participate in the work of the Council of Baltic Sea States (CBSS) against human trafficking.

The work against victims becoming dependent upon human traffickers calls for international co-operation and work within the states that are the countries of origin of the victims of human trafficking. The government has, through Nordic co-operation, supplied funds for preventive work among risk groups in the Baltic States and in North Western Russia, and has financed projects in the Balkan countries through the OSCE. This work should be continued.

Responsible party: The Ministry for Foreign Affairs, the Ministry of Social Affairs and Social Security.

**Action 22: The government should ensure that the purchase by representatives of the Icelandic government of any kind of sex services will not be tolerated.**

The Prime Minister's Office should initiate the establishment of a code of conduct for the Government Offices and the ministerial agencies that shall, among other things, declare that any purchase by any Icelandic Government representative of any kind of sex service will not be tolerated. This work will include taking into consideration the recommendations of the Nordic Council concerning the establishing of a code of conduct No. 9/2003; see also Articles 14 and 21 of the Government Employees Act No. 70/1996, which state that government employees shall 'avoid anything at work or outside the workplace which could sully their reputation or the job they perform or the profession to which they belong'.

Responsible party: Prime Minister's Office.

## **8. Proactive search and emergency phone numbers.**

*Goal: An emergency phone number should be introduced in case of suspicions of human trafficking.*

**Action 23: A presentation of the emergency phone number: 112 should be promoted for calling in the event of suspected human trafficking.**

A plan should be prepared, in collaboration with the Neyðarlínan emergency line, concerning the reception of phone calls to the emergency number 112 in the event of suspected human trafficking. Staff should receive training in receiving such phone calls and direct them to the proper channels. At the same time, the emergency phone number should be presented in an information leaflet concerning human trafficking and its characteristics, intended both for the general public as well as for the victims of human trafficking, and it should be published in several languages and be available in the proper locations, such as at border inspection posts.

Responsible party: The Ministry of Justice, the Ministry of Social Affairs and Social Security.

## **9. Registration of information and intelligence gathering.**

*Goal: All cases in which human trafficking is suspected or has been confirmed should be registered in a co-ordinated manner.*

### **Action 24: The specialist and co-ordination team for human trafficking should introduce a registration system concerning human trafficking cases in Iceland.**

A co-ordinated registration system should be established for cases in which there is a suspicion of human trafficking, and for cases that are received for processing with a view to aiding the victims of human trafficking or for the criminal justice system. Such registry will be necessary, so that the status and developments in this field can be monitored in Iceland and so that reporting to domestic authorities and to international organisations can be performed.

Responsible party: The Ministry of Social Affairs and Social Security.

*Goal: Knowledge of the scope and nature of human trafficking in Iceland should be enhanced.*

### **Action 25: Research on the scope and nature of human trafficking in Iceland.**

Studies should be initiated on the nature and scope of human trafficking in Iceland, whether in the form of sex services, use of pornography or forced labour. The authorities have received indications of prostitution in Iceland from several studies and reports that were made in Iceland. These are the following: *Prostitution in Iceland and its Social Surroundings (Vændi á Íslandi og félagslegt umhverfi þess)* (2001), *Report by the Commission to make Recommendations concerning Remedial Action because of Pornography and Prostitution (Skýrsla nefndar sem falið var að gera tillögur um úrbætur vegna kláms og vændis)* (2002) and *Report by the Working Group that studied different Legislation concerning Prostitution, etc., in the Nordic Countries and elsewhere (Skýrsla starfshóps sem kynnti sér mismunandi löggjöf um vændi o.fl. á Norðurlöndum og víðar)* (2006). These reports find that there are links between human trafficking and sex services in Iceland, but the scope of it is unknown. Also, little is known concerning human trafficking in the form of forced labour in Iceland, if it exists, to what extent it exists, and what its characteristics are. It is recognised among the scholarly community that studies on human trafficking are subject to certain difficulties, because the activity is concealed and the victims attempt to hide their working. It is necessary to more effectively follow up the indications and suspicions that have arisen in Iceland through studies, and also to ensure the financing of these studies.

Responsible party: The Ministry of Social Affairs and Social Security.

## EXPLANATORY STATEMENT

### I. What is human trafficking?

Human trafficking is trading in persons for profit gain to meet the demand for women, men and children for work in the sex market, forced labour, in criminal activities and warfare, as well as for the purpose of organ removal for sale on the black market. Children that are sold for illegal adoption are also considered the victims of human trafficking. The perpetrators work alone or in small groups, or in large, organised and even international criminal groups.

In the opinion of the United Nations, human trafficking is the fastest growing organised criminal activity on a global level. Hundreds of thousands of individuals, mostly women and female children, fall victim to human trafficking every year. Human trafficking is a criminal act and an extremely serious violation of the human rights of the individuals who are subjected to such trafficking. It is linked to other organised international crimes, such as trafficking in firearms and drugs, money laundering and financing acts of terrorism. The criminal activities are generally well organised and there are numerous indications that the activities of criminals in these fields are growing ever more sophisticated, technologically advanced and ruthless, given that the chance of making a profit is considerable. Human trafficking is a criminal activity that ignores national borders. No single nation can, on its own, prevent this danger, and the fight against human trafficking requires far-reaching and efficient international co-operation if it is to succeed.

The international community is determined to combat human trafficking. Under the auspices of the United Nations, the Council of Europe, the European Union, the Organization for Security and Co-operation in Europe (OSCE) and the Nordic Council, international and regional agreements have been reached to combat human trafficking by any available means.

The Icelandic authorities have, for many years, been involved in the international fight against human trafficking,<sup>7</sup> particularly under the auspices of the United Nations (3<sup>rd</sup> committee of the UN General Assembly and in the UN Commission on Human Rights), OSCE, the Council of Europe and the Nordic Council of Ministers. They have done so through, among other things, speeches and participation in the preparation of resolutions issued by these bodies on actions against human trafficking.

The Icelandic authorities participate fully in the international community's battle in this respect, and have decided to do even better by approving an Action Plan against Human Trafficking in Iceland based on Iceland's international commitments.

In ancient times, the Icelandic word *man* meant slave. It was generally used to denote female slaves, although it was also used to mean woman, as may be seen in Laxness's novel *Hið ljósa man* (The Fair Maiden). Today the term *mansal* (*human trafficking, trafficking in human beings, trafficking in persons*) is used to refer to trading in persons of both genders. As a result, the term 'modern slavery' is apt, although the slaves of today do not work in visible chains picking cotton as before. The loss of freedom and use of coercion can be completely hidden. Because of threats and lack of information about available options, the victims themselves are careful to maintain the secrecy.

### Scope and profits

Human trafficking may be found in every corner of the globe. Its scope is not known and those who try to assess it do not always agree. As a result, statistics on the number of human trafficking victims vary. However, the United Nations estimates that for several years, approximately 2.5 million people may have been victims of human trafficking at any time. The United Nations believe that the majority of the victims are within Asia and the Pacific, or approximately 1.4 million. Several hundred thousand additional victims are believed to be on each continent – around 270,000 in the Western countries. The annual proceeds from human trafficking as a whole are estimated to be approximately USD 32bn, which means that the profits from human trafficking are believed to be second only to profits from illegal firearms and drug trafficking. Although just over 10% of the victims of human trafficking

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<sup>7</sup> See the document "Mannréttindi í íslenski utanríkisstefnu" (Human rights in Icelandic Foreign Policy), issued by the Ministry for Foreign Affairs (in 2007).

worldwide are believed to be in Western countries, approximately half the profits come from these countries.<sup>8</sup>

The manifestations of human trafficking vary in different parts of the world. According to the International Labour Organization (ILO), the most common form involves the victim working in the sex market – approximately 43% – while approximately 32% is forced labour in factories, agriculture and private homes. Another 25% of victims are forced to participate in warfare, engage in illegal activities, undergo the removal of organs, or are sold for illegal adoption. The United States authorities believe that 55% of victims are involved in prostitution; the International Organization for Migration (IOM)<sup>9</sup> believes the figure to be 81%, while the United Nations Office on Drugs and Crime (UNODC)<sup>10</sup> puts the figure at 87%.<sup>11</sup> According to the majority of evaluators, approximately 80% of victims are female and up to half are children under the age of 18.<sup>12</sup> In the Western countries, the main object of human trafficking is to meet the demand for prostitution and other sex services, pornography and child pornography in particular.

### **How is human trafficking carried out?**

Human trafficking can take many forms, depending on its purpose. One of its most serious manifestations is when perpetrators, who often operate across borders, kidnap victims or entice them with false offers of well paid city jobs, both within the country and abroad, and then trap them in servitude through threats, deception and violence in myriad forms, both against the victim and the victim's family. If prostitution is the goal, the first step commonly involves relatives, boy-friends or even employment agencies delivering the victims to intermediaries, who then sell them to brothels operated by organised criminal groups. Studies have shown that some victims know that they are headed for prostitution and there may even be some form of agreement on the part of the victim. Through subsequent debt bondage and threats, some of these victims are trapped in an enslavement they cannot escape. When trafficking occurs within a country, e.g. by transportation from rural areas to brothels in the cities, it can be difficult to differentiate between victims of trafficking and prostitution.

Trafficking for the purpose of forced labour may involve the victim being promised a job within the country or abroad, while laws, collective wage agreements, rules on working hours or other rules applicable to legitimate employment are wholly violated. At the same time, the victim is generally required to pay transportation costs or other excessive costs, such as housing, which take no account of the income of the person in question. In such cases the agreement of the victim in question may have been obtained initially, although this does not change the fact that human trafficking is involved as defined by international conventions. On a global level, it is common to find the victims of human trafficking in domestic servitude where working hours are excessive, rights and insurance non-existent, wages low or non-existent, and violence is employed as a matter of course.

Traffickers generally prey on children and young women in poor economic and social circumstances who come from broken homes or from families in difficult circumstances. According to IOM, 46% of victims know the person who initially consigns them to trafficking groups, while 54% fall prey to people they do not know. Both men and women act as the perpetrators forming the first link in the chain of traffickers, although men are in the majority.<sup>13</sup> The chain of sellers and buyers of each victim can be long, and victims are generally sold again and again as long as any profit can be made. At each sale, the buyer generally demands the purchase price from the victim as well as transportation costs, so that the victim becomes enmeshed in a web of debt that is formed and magnified again and again, with the victim rarely reaping any benefit.

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<sup>8</sup> Statistics from the International Labour Organization (ILO). See UN.GIFT. Human Trafficking: An overview. United Nations. New York, 2008, pg. 6-7.

<sup>9</sup> International Organisation for Migration. Counter-Trafficking Database, 78 countries, 1999-2006.

<sup>10</sup> United Nations Office on Drugs and Crime (UNODC).

<sup>11</sup> ILO Minimum Estimate of Forced Labour in the World (ILO, April 2005).

<sup>12</sup> UN.GIFT. Human Trafficking: An overview. United Nations. New York, 2008, pg. 16.

<sup>13</sup> International Organisation for Migration. Counter-Trafficking Database, 78 countries, 1999-2006.

## **International criminal activities**

Human trafficking can occur within a country or through the sale and transportation of victims between countries. The same country can, at the same time, be a country of origin, transit or destination for victims of trafficking. According to a report issued by UNODC, areas within the Commonwealth of Independent States (CIS), Central and South East Europe, West Africa and South East Asia are the most common victim origin-countries. The most common destination countries are countries in West Europe, North America and West Asia. Transit countries in Europe are, in particular, those of Central and South East Europe and Western Europe. Outside Europe, South East Asia, Central America and West Africa are also common victim transit countries.<sup>14</sup>

Cross-border transportation can either be visible or hidden, legal or illegal. The victims may be ferried by brothers, boy-friends or people pretending to be representatives of employment agencies. In some parts of the world, corrupt officials, including police and border guards, provide protection for perpetrators in exchange for bribes or other gains. Many types of crimes are often involved, such as violations of immigration laws and travelling with forged travel documents while valid passports are withheld by perpetrators, and many types of coercion and unlawful confinement are employed. The victims often fall foul of the law, e.g. due to illegal travel documents, and may even be deported or sentenced without their status as a victim being revealed.

Trafficking in persons by transporting victims between countries where the seller and the buyer are in different countries requires organisation and a cross-border partnership network of perpetrators. This is why trafficking in human beings is classified as an international crime and, as a result, investigation and prosecution of such cases requires international police co-operation.

## **II. Human trafficking in Iceland.**

The Icelandic authorities are convinced that human trafficking also occurs in Iceland to the extent that Iceland is in some cases a transit country or a destination country for human traffickers. There are no confirmed cases of Iceland being a country of origin for victims of human trafficking, in the sense that victims are sent from Iceland to other countries. The experience of border guards, the police and various institutions and non-governmental organisations (NGOs) confirms this belief. According to the report issued by the National Commissioner of the Icelandic Police (NCIP) regarding organised crime and the risk of terrorism from February 2009, organised prostitution is practised in Iceland. In the report, the police in the greater Reykjavík area reveal that prostitutes come to Iceland from abroad. The women send the greater part of their income overseas. These activities are often connected with the trade in illegal drugs. Economic difficulties and increasing unemployment lead to the risk that such activities will increase in Iceland. Human trafficking or trading in persons is a recognised phenomenon all over the world and is considered to be the fastest growing criminal activity at present. Suspicions of human trafficking in Iceland have, for a long time, been linked to strip-dancing clubs and prostitution. It is also revealed that Iceland seems to be primarily a transit country as regards the smuggling of people.

Most of the cases with which the above parties are familiar and which indicate human trafficking involve the sex industry and, in a very few cases, forced labour. There is no knowledge of human trafficking for other purposes. The scope has not been confirmed by research. However, in 2007 the representatives of various non-governmental organisations (NGOs) revealed that in the past year each had been in contact with between three and twenty possible victims of human trafficking. Representatives of the Intercultural Centre,<sup>15</sup> the body that foreigners commonly contact, were of the opinion that they had come into contact with dozens of victims of the type of human trafficking that involves bonded or forced labour, including cases where the foreign wives of Icelandic men were required to provide sexual services and forced labour.

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<sup>14</sup> United Nations Office on Drugs and Crime, *Trafficking in Persons Report 2007*.

<sup>15</sup> The Intercultural Centre represents people of foreign origin in Iceland. The Centre engages in various activities to encourage intercultural communications, such as distributing information, and providing advice and assistance.

In 2003, the Penal Code No. 19/1940 was amended, by means of Act No. 40/2003, so that a new provision, Article 227.a, was added, providing:

*Any person guilty of the following acts for the purpose of taking advantage of a person sexually or for forced labour or for organ removal shall be punished for human trafficking with up to 8 years imprisonment:*

- 1. The procurement, transportation, harbouring or receipt of a person who is or has been subjected to unlawful coercion according to Article 225, deprived of their freedom according to Article 226, threatened according to Article 233, subjected to unlawful deception by awakening, strengthening or utilising such person's lack of understanding of circumstances or other inappropriate methods.*
- 2. The procurement, transportation, harbouring or receipt of a person under the age of 18, or rendering payment or other gain in order to acquire the approval of those having the care of a child.*

*The same penalty shall apply to any person accepting payment or other gain according to item 2 of paragraph 1.*

Particular aspects of the complex violations that as a whole are referred to as human trafficking have long been punishable; these include violations such as deprivation of freedom, unlawful coercion, deception and threats. Furthermore, such violations may also involve violations of other legislation, such as Act on Foreigners, No. 96/2002, and the provisions of the Penal Code relating to prostitution (Article 206). However, this is the first time that provisions on human trafficking as a whole have been added to the General Penal Code. Although this amendment to the Code is an improvement, it is not, on its own, sufficient to ensure that Icelandic authorities are able to meet the demands of the international community for stronger measures against human trafficking and victim protection.<sup>16</sup>

Violations of the above provision have never been prosecuted. There have been cases exposed where individuals or groups of people and their escorts have attempted to transit through Keflavík Airport to the United States using forged travel documents. Suspicions arose that the people in question were victims of human trafficking and that they would be subjected to forced labour. In one such case judgement was passed on six individuals. The conviction was for forgery pursuant to Article 155 of the Penal Code, as it was considered impossible to base the case on the human trafficking provision from 2003.<sup>17</sup> However, it is not possible to ignore the fact that in this case five Chinese women, who the courts defined as the victims of human trafficking, were sentenced for punishment despite being the victims of crime. In another case, the owner of a massage parlour was believed to have kept an employee under conditions described as forced labour. The employee initiated civil proceedings demanding restitution for unpaid wages and won the case<sup>18</sup>. In addition, the owner was sentenced in criminal proceedings for violating the Penal Code by forging the employee's signature on an employment contract.<sup>19</sup> In a third case there was a suspicion that chefs and waiters were working under similar conditions at a restaurant. The investigation into this case was discontinued as the persons involved left the country as soon as suspicions were raised and the restaurant in question immediately changed ownership. Furthermore, the police initiated the investigation of the case of the Bóhem strip club in 2001, following complaints from some dancers that they were being forced into prostitution. Their employment contracts, which subsequently became public, had certain characteristics of human trafficking. The investigation of this case was discontinued as it was considered unlikely that it would be possible to prove the alleged violations before a court of law.

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<sup>16</sup> The Minister of Justice submitted a legislative bill on an amendment to the General Penal Code No. 19/1940 during the 135<sup>th</sup> legislative session. The bill was not passed during the session and was submitted a second time during the 136<sup>th</sup> legislative session. The bill contains various amendments to Article 227.a of the General Penal Code. The bill is currently under review by the General Committee of the Althingi. See also Action 1.

<sup>17</sup> Supreme Court rulings No. 449/2003, 450/2003, 451/2003, 452/2003, 453/2003 and 454/2003.

<sup>18</sup> Ruling of the District Court of Reykjanes from 5 January 2006 in Case No. E-2498/2004.

<sup>19</sup> Ruling of the District Court of Reykjanes from 11 November 2005 in Case No. S-1068/2005.



## Prostitution

In recent years there have been indications that prostitution is carried out in Iceland, particularly by prostitutes arriving here from abroad to stay for a few weeks at a time. In such cases visits to their rooms are organised in advance, through the Internet and using telephone messages. The police have, in many cases, stopped the activities of foreign prostitutes in hotels after receiving tips from hotel staff, without, however, being able to find out whether an intermediary or intermediaries had profited from the transaction, given that the prostitutes in question left the country immediately after the involvement of the police. This arrangement may indicate the involvement of organised criminal groups in the operation, and it is likely that they receive assistance from Icelandic parties. As a result, the possibility that victims of human trafficking have been sent to Iceland for the purpose of prostitution cannot be excluded.<sup>20</sup>

In light of the modern definition of human trafficking, there may be reason to review the conclusions of previous investigations into prostitution in Iceland, where there have been indications that persons have taken advantage of the addiction and poor circumstances of young people under the age of 18 by selling sexual access to such youngsters.<sup>21</sup> Likewise, there may be reason to examine, in light of the provisions of the Penal Code relating to human trafficking and prostitution, known cases of the marriage of Icelandic men to women from outside the EEA, where the foreign wife has been required to pay in the form of prostitution, other sex services or forced labour.

Iceland is regarded as a part of the world where prostitution is a lucrative business, given that purchasing power is high and demand and connections with foreign criminal organisations are present. It is difficult to estimate its scope. The General Penal Code was amended in 2007 so as to stop engagement in prostitution for the purpose of supporting oneself being a punishable offence, cf. Act No. 61/2007. It continues to be a crime to: base one's employment on or support oneself by exploiting prostitution practised by others; lure, encourage or assist a child under the age of 18 to engage in prostitution; encourage anyone to move to or from Iceland to engage in prostitution to provide for themselves; lure, encourage or act as an intermediary for sexual intercourse in exchange for payment; have indirect income from the prostitution of others, such as by the lease of housing or other means. Moreover, it is a punishable offence to publish advertisements in which sexual intercourse is offered, arranged or requested in exchange for payment (see further Article 206 of the General Penal Code No. 19/1940). Last, but not least, it is a punishable offence to pay a child under the age of 18 a consideration in exchange for sexual intercourse or other sexual relations, cf. paragraph 4 of Article 202 of the General Penal Code.

If the prostitution of foreign women in Icelandic hotels is seen in the light of Article 206 of the Penal Code No. 19/1940, there is a strong likelihood that persons involved in the arrival of foreign prostitutes in Iceland and who advertise their services, e.g. on websites, or knowingly derive income from such activities as the operators of hotels and guesthouses are at least in violation of this Article of the Penal Code.

Ever since 2000, legislative bills have regularly been submitted to the Althingi to make the purchase of prostitution a punishable offence, as Sweden and, more recently, Norway have done, but these have not been passed. The opinion issued by the General Committee as regards amendments to the sex offences section of the Penal Code in 2007, states that 'prostitution [is] one form of sexual violence', but at the same time opposes making the purchase of prostitution a punishable offence. The opinion states:

*This method has the unmistakable shortcoming of driving prostitution underground and off the streets and, in some respects, onto the Internet, making it even more invisible. At the same time, it will be harder to catch the intermediaries. This would necessitate increased police surveillance of violations with no complainants. The Committee points out that prostitution is a social problem and doubts that the problem will be solved by means of punishment. The conclusion of the Committee, therefore, is to recommend that the amendment of making the purchase of sexual*

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<sup>20</sup> See e.g. the report *Mat ríkislögreglustjóra á skipulagðri glæpastarfsemi og hættu á hryðjuverkjum (The Evaluation of the National Commissioner of Police of Organised Crime and the Risk of Terrorism)*. The National Commissioner of the Icelandic Police, February 2009.

<sup>21</sup> See the reports *Væði á Íslandi og félagslegt umhverfi þess (Prostitution in Iceland and its Social Environment)* Reykjavík: The Icelandic Centre for Social Research and Analysis (2001), and *Skýrsla nefndar sem falið var að gera tillögur um úrbætur vegna kláms og væðis (The Report of the Committee Appointed to Submit Proposals for Remedial Actions Relating to Pornography and Prostitution)*. Reykjavík, Ministry of Justice.

*services a punishable offence is not adopted at present. However, the Committee recommends that the police and other public authorities investigate and monitor the scope of the problem of prostitution in Iceland and ensure the people involved are referred to the competent parties who can provide the appropriate assistance and treatment.*<sup>22</sup>

The demand to make the purchase of sexual services a punishable offence has the support of the majority of the public, if account is taken of the survey performed by Capacent Gallup for the Icelandic National Broadcasting Service on 21-27 March 2007 on the public's opinion on whether to make the purchase of sexual services a punishable offence. Seventy percent of respondents agreed or strongly agreed, while 20% were against or strongly against. The majority of both men and women approved of the prohibition. The argument in support of making the purchase of sexual services a punishable offence rests on the view that prostitution is one form of sexual violence, as the Committee opinion of the General Committee agreed, and that it is unacceptable to define such an act as a violent one without making it a punishable offence, as is the case with other forms of violence. In addition, it is unacceptable to regard the human body as a commodity – the responsibility for prostitution must lie with the buyer and not the seller. There is a difference in circumstance in the fact that the buyer, on the basis of money, has a choice over the purchase. The view that prostitution is a social problem is upheld, but that this problem first and foremost belongs to those who are engaged in prostitution and not those who purchase it. In addition, the argument that making the purchase of sexual services a punishable offence will drive it underground and off the streets is rejected – prostitution in Iceland has never been on the streets, and already takes place in environments connected with the Internet and the underground.

At present, a legislative bill has been submitted to the Althingi by members of parliament recommending that the purchase of sexual services be made a punishable offence.<sup>23</sup> This calls for, among other things, the: '[I]mplementation of provisions on the culpability of purchasing sexual services so that any person who pays or promises payment or other consideration for sexual services shall be subject to fines or imprisonment for up to one year. Moreover, it is proposed that if payment is made for the sexual services of a child under the age of 18, this shall be subject to greater punishment, up to two years imprisonment. No account shall be taken of the form of the payment. The payment may be in the form of money, alcohol or drugs, other items or some task, favour or service. Furthermore, the payment or promise of payment need not be given to the person providing the service, given that the conduct of an intermediary is punishable pursuant to paragraph 4 of Article 206 of the Penal Code. In the same manner, the act is punishable if the sexual services are purchased for a third party. The bill is intended to implement what has been referred to as the Swedish method, which makes the purchase of sexual services punishable. Norway recently adopted Sweden's method by making it a punishable offence to buy sex'. It is considered an important step in the fight against human trafficking that the Althingi approve the bill as soon as possible.

### **Strip dancing**

Icelandic authorities have, in various forums, stated their concern about possible connections between prostitution and Icelandic strip-dance clubs, given that the dancers often come from areas known to be countries of origin of victims of human trafficking. The statement submitted by Páll Pétursson, the then Minister of Social Affairs, and Sólveig Pétursdóttir, the then Minister of Justice, on behalf of Iceland at the meeting of the Nordic Council and the Nordic Council of Ministers in 2002, in the period leading up to the co-operation between the Nordic countries and the Baltic countries against human trafficking, states:<sup>24</sup>

*Iceland has experienced being a transit country for trafficking in women from Europe to the United States, and a number of foreign women come each year to Iceland to work as strip dancers in clubs. When research, initiated by the Minister of Justice, confirmed a link between strip clubs operated in Reykjavík and prostitution, warning signs were lit. It was noticed that some of the foreign women working as strip dancers might be forced into prostitution.*

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<sup>22</sup> Committee opinion of the General Committee, 133<sup>rd</sup> legislative session 2006-2007, legislative document 1151 – 20<sup>th</sup> matter.

<sup>23</sup> Legislative bill on the amendment of the General Penal Code No. 19/1940, as amended, legislative document 583 – 342<sup>nd</sup> matter, 136<sup>th</sup> legislative session 2008-2009.

<sup>24</sup> <http://www.nordicbalticcampaing.org/icelandic/index.html> (see in more detail later).

In recent years, the operation of strip clubs has decreased, particularly due to the policies of various municipalities that have opposed them. It is believed that the operation reached maximum numbers at the turn of the century and, according to information from Stígamót (The Icelandic Counselling and Information Centre for Survivors of Sexual Violence), in one year one dancer was imported to Iceland for every 100 Icelandic men. Nude shows were subsequently banned by the Act on Restaurants, Collective Accommodation Establishments and Entertainment, No. 85/2007, which states in paragraph 4 of Article 4:

*Restaurants may neither offer nude shows nor in any other manner benefit from the nudity of employees or that of others present. However, the licensor may permit, in the operating licence pursuant to this Act, commercial strip dancing at a restaurant, on having received the positive opinion of consultation bodies pursuant to Article 10. In such places, exhibitors may not mingle with viewers and, moreover, any form of private show is prohibited.*

Despite the fact that the principle purpose of the provision is to ban nude shows and profiting, in any other manner, from the nudity of employees, strip clubs continue to operate under the exemption provided for in the provision. Only on one occasion during the effective term of this legal provision has an attempt been made by the authorities to oppose the licensor using the exemption authorisation contained in the provision to allow an operator to offer nude dancing. On 31 October 2007, the District Magistrate of the municipality of Kópavogur refused the strip-dancing club Goldfinger's request for an extension of its operating licence on the basis of a negative opinion from the Commissioner of Police in the greater Reykjavík area according to Act No. 85/2007 on Restaurants, Collective Accommodation Establishments and Entertainment. The District Magistrate's decision was appealed to the Ministry of Justice, which reversed the District Magistrate's decision. In general, it was the opinion of the Ministry that the substance of the report of the Commissioner of Police in the greater Reykjavík area was substantially faulty. The Ministry's ruling stated that despite the opinion of the authority being binding, the licensor is under obligation to examine whether the report is based on objective and legitimate reasoning. The letter of the attorney of the complainant calls into doubt whether the authorities may make a subjective assessment of operations such as strip-dancing clubs, given that there are no legal provisions that allow consulting parties to let value judgements guide their position.

Following this ruling by the Ministry of Justice, the Reykjavík Municipal Executive Board and the Kópavogur Municipal Council requested that Althingi deleted from paragraph 4 of Article 4 of Act No. 85/2007 the licensor's authorisation to grant strip-dancing clubs an operating licence, as such authorisation contradicts the principal purpose of the provision.

Item 1 of paragraph 4 of Article 10 of Act No. 85/2007, cf. the comments to Article 10 of the bill which was enacted, and paragraph 1 of Article 24 of Regulation No. 585/2007 on Restaurants, Collective Accommodation Establishments and Entertainment, specifically states that the role of the local governments is, among other things, to confirm that the opening hours and location of an establishment to which an application applies are within the limits that the rules and organisation of the municipality provide for. The application of this provision has not yet been tested, and it may be assumed that local governments have scope within applicable legislation to reason a report in such a manner that strip dancing will not be permitted, if such is their position.

### **Pornography and child pornography**

There are strong ties between the manufacture of all forms of pornography and human trafficking. Pornography may be regarded as *photographed/filmed prostitution*. The consumer of pornographic material has no way of differentiating between those who are the victims of human trafficking in the sex industry and those who are not. However, pornographic material with participants under the age of 18 is in all cases illegal and regarded as human trafficking according to approved definitions thereto. It is believed that the manufacture of child pornography is growing, particularly in the countries in South East Europe and within the CIS (Commonwealth of Independent States), and that the buyer's market is also growing. There is also a market and demand here in Iceland. Icelandic consumers in this market, therefore, are buyers of the products of international crime and human trafficking cartels, when it comes to the consumption of pornography. If the definition of human trafficking employed by the

United Nations<sup>25</sup> is taken into account, these consumers are defined as perpetrators of human trafficking.

At the beginning of September 2008, the Nordic National Commissioners of Police submitted to the Nordic Ministers of Justice joint proposals on concerted actions against child pornography. The ministers approved the proposals, which include: to establish a common database, to strengthen co-operation between Nordic police involved in this field, to work together on technological advances, to establish a channel for tip-offs in each country and, finally, to participate in international police co-operation and investigations into violations perpetrated outside the Nordic countries.

Issues relating to violence against children by means of the Internet have been under examination for some time by the National Commissioner of the Icelandic Police (NCIP). The NCIP plans to take over the tip-off line of Barnaheill (Save the Children Iceland) and has, therefore, strengthened co-operation with the association, participated in a conference held by the association and been involved in policy formulation in the field. Representatives of the Norwegian police have visited Iceland at the request of the NCIP and held meetings with local police. The employees of the International Department of the NCIP have received special training by the FBI and European police (Europol). Work is currently underway on ideas for strengthening policing on the Internet. Moreover, the Sexual Crimes Division of the Commissioner of Police in the greater Reykjavík area has been involved in extensive and excellent work on the investigation of crimes perpetrated against children by means of the Internet.

Furthermore, in January 2009, the Minister of Justice, the Commissioner of Police in the greater Reykjavík area, and the Icelandic start-up company Eff2 Technologies signed a fixed-term work contract on the development, installation and use of a software system for the Office of the Reykjavík Area Police, which enables the police to identify child pornography and other illicit material in computers that have been confiscated. Through the co-operation of the Police and Eff2 Technologies, Iceland will be the first country in the world to use such a solution in the battle against child pornography and other illicit material. The benefits of the technology mean both less work for the police and increased efficiency in investigations into child pornography cases. The technology increases the possibilities for investigating the origin and distribution of child pornography, and thus offers a greater capability for catching those who manufacture and extensively distribute such material. Such actions would be carried through in close co-operation with police authorities in other countries.

It is vital that systematic efforts continue to be made to prevent the distribution of child pornography. Moreover, the latest technical methods that are useful in this fight must be investigated, so that such violations may be prevented and those who perpetrate such crimes may be caught.

## Children

The same definition applies to human trafficking in children as applies to human trafficking in adults. Children are trafficked for prostitution, the manufacture of child pornography, forced labour, organ removal, for criminal activities, including begging, for warfare and illegal adoption. Under-age children who are made to hide their young age with forged identity papers are present in the prostitution market in most of our neighbouring countries. There are also human trafficking victims among unaccompanied children and asylum seekers. The manifestations of human trafficking in children in Iceland, however, are for the most part indirect, in the form of the consumption of child pornography. It is likely that there are Icelanders among those engaging in sex tourism to gain access to children in other countries who are the victims of human trafficking. As previously stated, in light of the United Nations definition of human trafficking, there may be reason to redefine known cases in Iceland where perpetrators have taken advantage of the addiction of youngsters and their poor circumstances to acquire income by means of their prostitution.<sup>26</sup>

Street children and unaccompanied children are considered, by the international community, as being especially at risk when it comes to human trafficking. Perpetrators take advantage of their poor

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<sup>25</sup> See also Chapter III on international commitments.

<sup>26</sup> See the reports *Vændi á Íslandi og félagslegt umhverfi þess* (Prostitution in Iceland and its Social Environment), Reykjavík: The Icelandic Centre for Social Research and Analysis (2001), and *Skýrsla nefndar sem falið var að gera tillögur um úrbætur vegna kláms og vændis* (The Report of the Committee Appointed to Submit Proposals for Remedial Actions Relating to Pornography and Prostitution). Reykjavík, Ministry of Justice (2002).

circumstances, such as poverty and addiction, and make them dependent on them in various ways in order to force the children into prostitution, the manufacture of pornography or other coerced activities, and, in some places, for organ removal. There are few known cases where unaccompanied children have come to Iceland from abroad and none where suspicions of criminal activities have arisen.<sup>27</sup>

The Ministry of Justice is responsible for procedures relating to the resolution of cases where foreign children are on their own, request asylum or are found unregistered in Iceland. Article 89 of Regulation No. 53/2003, on Foreigners, as amended, stipulates that if an asylum applicant who is under the age of 18 has come to Iceland without a parent or a guardian, the case shall be handled in accordance with the Action Plan of the Ministry of Justice, as published in the *Report on Unaccompanied Children* (2004), and that the Directorate of Immigration shall establish further rules on the handling of such cases. The Directorate of Immigration is currently preparing such rules and will take account of this action plan when establishing the rules. The report does not specifically address cases where there is suspicion of human trafficking. However, in the event of suspicion of a punishable offence, the police will continue to be responsible for that aspect of the case. Procedures are described for cases where a child with foreign citizenship is unaccompanied in Iceland. These state that the police are responsible for the initial investigation of such a case, which is then transferred to the Directorate of Immigration once the investigation is completed.

It is clear that the police and the Directorate of Immigration bear unequivocal responsibility in this respect. So do child protection authorities. According to the Child Protection Act No. 80/2002, the legislation applies to all children within the territory of the Icelandic state, irrespective of citizenship, as provided for in paragraph 2 of Article 2 of the Act. Therefore, it is important that the police contact without delay the child protection committee in the area where the child is found, as provided for in Section IV of the Child Protection Act. It is important that the Government Agency for Child Protection receives information about the case so that an overview can be maintained of all cases that arise. Moreover, the Agency has regular communications and connections with overseas child protection authorities, the use of which is important in cases where a child returns to the country of origin/home country. Child protection committees always contact the Government Agency for Child Protection when there are communications between Icelandic and foreign child protection authorities as regards individual children and other special cases.

The main task of the authorities as regards children with foreign citizenship that are found here and are without their parents is to discover their place of origin and reunite them with their family in their home country in a safe manner. In the event of a suspicion or confirmation of human trafficking, it is even more important to make sure that the child's journey home is secure and that the child will be in the hands of a person who can be trusted for his/her care. Such examination would be the responsibility of the child protection authorities in the child's home country, which assess whether the child shall go to its parents or another responsible party. If it is impossible to send a child to his/her home country, the child protection authorities shall find the child an appropriate permanent home in Iceland with permanent fostering in accordance with the Child Protection Act. The Directorate of Immigration grants the child a residence permit or asylum as appropriate.

The above-mentioned report of the Ministry of Justice recommends that the responsibility for a child lies with the municipality Reykjanesbær when a child is found on arrival in Iceland at Keflavík Airport until the case is resolved, either by the child returning to his/her home country or being granted permanent residence in Iceland. Thus, the child protection committee of the municipality Sandgerði would not be called in, despite the fact that the airport area is within that municipality. If a child is found in another child protection area, the child protection committee in question is expected to be responsible for the care of the child in accordance with the Act on Child Protection. An amendment was made to Article 89 of Regulation No. 53/2003, on Foreigners, by means of Regulation No. 769/2004, in which the provision stating that a representative of the child protection authorities shall be present in interviews involving a child seeking asylum was deleted and reference made to the Action Plan on Unaccompanied Children, cf. what was previously stated on such matters. The representative of the Reykjanesbær Social Services, who is responsible for a child that seeks asylum, is expected to undertake this role and be present during interviews together with a representative for

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<sup>27</sup> See report of the task group on the issues of homeless children. Ministry of Justice (April 2004).

the Icelandic Red Cross, who acts as the child's representative. However, this Action Plan on Actions Against Human Trafficking proposes that a representative from the child protection committee is always called in when interviews are conducted with children who are found unaccompanied in Iceland or who request asylum, and that the case in its entirety is carried out in accordance with the Child Protection Act, as this is in accordance with the principles of the Child Protection Act. The legal proceedings, as regards the child protection aspect of the case, do not change the fact that the decision on whether and in what manner the child will be permitted to stay in Iceland or sent to his/her home country is the responsibility of the Ministry of Justice.

### **Forced labour**

Forced labour is defined as all work or service which is exacted from a person under the threat of penalty and which is undertaken involuntarily.<sup>28</sup> The International Labour Organization (ILO) estimates that approximately 12.3 million people worldwide are currently trapped in forced labour and that approximately 20% of these are the victims of human trafficking. According to the same source, they are most commonly found working in private homes, in the building and construction industry, agriculture and the hotel and restaurant sector. Illegal immigrants are particularly at risk. It can be difficult to differentiate between those working under poor conditions and under illegal terms and those who are the victims of human trafficking. Poor and illegal working conditions are characterised by violations of legislation on the working environment and health and thereby safety regulations, excessively long working days, and terms that do not meet the terms of collective wage agreements. Poor conditions may include the victims living together in large numbers under unhealthy and illegal conditions in housing operated by the employer, even in exchange for excessively high fees. Despite the fact that there are many grey areas, such cases are rarely a case of force or deprivation of freedom, although neither force nor deprivation of freedom is a prerequisite for an event to be subject to the human trafficking provisions of legislation. Characteristics such as complicated debt relationships with employers, demands for the repayment of travel costs, etc., can, however, suffice to involve human trafficking according to the understanding of international agreements and the legislation of individual countries.

In Iceland there have been cases where foreign workers have been subjected to poor conditions. These include the payment of wages under minimum wage terms and cases where rights relating to safety and health, rest hours and working conditions have been violated. The Directorate of Labour is responsible for monitoring the circumstances of foreign workers under the slogan *Allt í ljós* (*Everything brought to light*) and enjoys good co-operation with employee associations in this respect.

### **III. International commitments by Iceland and international co-operation**

The international community has for a long time fought against various manifestations of human trafficking, and international conventions have been made and resolutions have been passed that are an integral part of this struggle. These conventions pertain to slave labour or forced labour, the protection of children, the protection of and the rights of women, action against prostitution and the prohibition of any kind of trading in persons for this end. The international community has also, in recent years, agreed on various conventions that are directed against organised, transnational criminal activities and the illegal transnational transportation or smuggling of people.

The first such conventions that were signed by Iceland are the Resolutions of the International Labour Organisation (ILO) pertaining to the abolition of slave labour and the forced labour of both children and adults. Among such resolutions are the *ILO resolution No. 29 on the Abolition of Forced Labour and Mandatory Work* from 1930, *No. 105 on the Abolition of Forced Labour* from 1957, and later *No. 182 on the Prohibition of the Worst Forms of Child Labour and Immediate Action to Eliminate Child Labour* from 1999.<sup>29</sup> Article 14 of the *United Nations Declaration of Human Rights* (UNDHR) from 1948 lays down that no one may be kept in serfdom or slavery, and any kind of bondage or slave trade should be prohibited. Likewise Article 8 of the *United Nations International Covenant on Civil and Political Rights* (CCPR) from 1966 pertains to a prohibition against slaveholding and forced labour of any kind, and all sale of or trading in persons for that purpose is also

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<sup>28</sup> UNODC. *Trafficking in Persons. Global Patterns*, pg. 6.

<sup>29</sup> ILO Resolution No. 105 was ratified by Iceland in 1957, No. 29 in 1958 and No. 182 in 2000.

prohibited under the convention.<sup>30</sup> The *United Nations Convention on the Right of the Child (CRC-the UN Child Convention)* from 1989 also contains provisions to protect children and, in addition, the Icelandic authorities have ratified the *optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography* from 2000.<sup>31</sup> According to Article 6 of the *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)* from 1979, the member states shall take appropriate measures, including legislation, to suppress any kind of trade in women and profiteering in connection with the prostitution of women<sup>32</sup>. The Convention refers to human trafficking as gender-based violence against women.

### **The United Nations Convention against Transnational Organized Crime and Protocol on Human Trafficking**

There was a turning point in the international community's fight against human trafficking in 2000 when the United Nations passed the *Convention against Transnational Organized Crime* and three protocols to it, of which one deals in particular with human trafficking. This Protocol is commonly referred to as the *Palermo Protocol*. Here, for the first time, is presented the first comprehensive definition of human trafficking that the international community has agreed to, in which it acknowledges that human trafficking is one of the most important and lucrative parts of organised transnational crime. Iceland signed the Convention and the Protocol on 13 December 2000, both of which are pending ratification.<sup>33</sup>

The objective of the Convention and the Human Trafficking Protocol is, firstly, to bridge the gap between the different judicial systems of the member states so that it becomes easier to co-ordinate actions, to investigate and prosecute cases transnationally and, secondly, to create an international legal basis in the fight against human trafficking. Furthermore, the Convention and the Protocol also cover the protection of victims. This convention is the first time an international convention refers to and acknowledges that demand for sex services will result in human trafficking and that member states shall adopt measures in order to reduce demand.

The definition of 'human trafficking' in the Palermo Protocol pertains to three principal items, namely: the criminal act, the methods, and the motive, cf. Article 3 of the Protocol concerning use of terms.

The definition of 'human trafficking' is as follows:

- (a) *'Trafficking in persons' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;*
- (b) *The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;*
- (c) *The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if this does not involve any of the means set forth in subparagraph (a) of this article;*
- d) *'Child' shall mean any person under eighteen years of age.*

The following is a summary of the principal points of the Protocol:

- The Palermo Protocol states that all victims shall get protection, not only those who are able to establish that they have been subjected to violence or coercion. The consent of the victim of

<sup>30</sup> International Covenant on Civil and Political Rights (CCPR). UN 1966.

<sup>31</sup> Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography from 2000, ratified by Iceland in 2001.

<sup>32</sup> Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Article 6.

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

<sup>33</sup> The Convention against Transnational Organized Crime (UN, 2000a) and Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN, 2000b).

trafficking in persons shall be irrelevant if the perpetrator exploits the weak position of the victim, and the victim does not have to prove that he/she is the victim of trafficking in persons.

- The Protocol shall apply to the prevention, investigation and prosecution of offences, where those offences are transnational in nature and are perpetrated by an organised criminal group.
- The assistance to and protection of victims of human trafficking is one of the principal issues of the Human Trafficking Protocol. Under the protocol government authorities shall work in co-operation with non-governmental organisations (NGOs) and other appropriate institutions and private entities with the intention of ensuring that the victims of human trafficking receive counselling and information regarding their legal position in a language that the relevant individual understands. The states are also required to ensure the safety of victims of human trafficking, to protect their anonymity, offer them medical aid and psychological assistance and accommodation, and to assist them in other ways to re-enter society, such as through work, on-the-job training, etc. Consideration must be given to the needs of the victims and special measures must be applied in the case of children. Furthermore, the victims shall have the right to compensation.
- The receiving state shall ensure that the victims of human trafficking receive a permit to reside there temporarily, even permanently, if appropriate, and in any case are always guided by humanitarian considerations.
- The state of origin must receive victims of human trafficking, whether they are citizens or have had residence permits there, ensure their safety and provide them with travel documents, if needed, so they may return.
- Member states must form an overall policy and take measures to prevent and counter human trafficking. The member states must endeavour to support research, information gathering, media discussion and social and economic measures, in order to prevent and counter human trafficking. The states must also, through legislation and other measures, counter the social and economic circumstances, e.g. poverty, underdevelopment and lack of equal opportunities, that contribute to individuals, in particular women and children, becoming the victims of human trafficking. Work shall be done in collaboration with NGOs and other appropriate organisations and private entities. At the same time, states, through legislation and other means, shall fight against the demand that feeds human trafficking.
- The police, the immigration authorities and other relevant public agencies shall share information and train and educate their employees in order to forestall human trafficking, prosecute criminals, protect the rights of victims and protect them from human traffickers. The training shall place importance on human rights viewpoints, and consideration must be given to gender issues and specific circumstances, as in the case of children. Work shall be done in collaboration with NGOs and other appropriate organisations and private entities.
- Furthermore, states must maintain control of the borders for the purpose of detecting human trafficking and endeavour to issue safe travel documents that are difficult to counterfeit.

The Office of the United Nations High Commissioner of Human Rights issued Recommended Principles and Guidelines on Human Rights and Trafficking in 2002. In addition, the United Nations General Assembly passed a resolution in the same year called *Trafficking in Women and Girls*. It should be mentioned, in addition, that both the United Nations 3rd Committee and the United Nations Human Rights Council have for many years passed resolutions on human trafficking, prior to 2002 and until this day. The United Nations Security Council Resolution No. 1325 from 2000 on *Women, Peace and Security* has marked a certain turning point, as the resolution is the first recognition by the United Nations on the special position of women in areas of conflict and the importance of their contribution to peace. An Icelandic Plan for the Implementation of Resolution 1325 has been made.<sup>34</sup> It is also well worth mentioning that the United Nations Human Rights Council has a special

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<sup>34</sup> The Recommended Principles and Guidelines on Human Rights and Trafficking issued in 2002 document E/2002/68/Add. 1 by the Office of the United Nations High Commissioner of Human Rights. The United Nations Resolution Number 57/176 from 18 December 2002 called *trafficking in women and girls*. Security Council Resolution No. 1325 and an Icelandic action plan. Ministry for Foreign Affairs 8 March 2008.



rapporteur for human trafficking,<sup>35</sup> and the United Nations Human Rights Council also has a special rapporteur for trafficking in children, child prostitution and child pornography.<sup>36</sup>

### **The Council of Europe Convention on Action against Trafficking in Human Beings**

The Council of Europe Convention on Action against Trafficking in Human Beings was adopted and submitted for signing at the third meeting of the Council's leaders in Warsaw on 16 May 2005. Iceland was among the states that signed the Convention on that same day. The Convention is available for signature by the European Council Member States, states not members of the European Council who participated in the drafting of the Convention, and the European Union. The Convention became effective on 1 February 2008. In Iceland the Convention is pending ratification.

The background to the Convention is that the Council considered it to be necessary to pass a binding convention that would, in particular, encompass the protection of victims of human trafficking, and which would also ensure both their human rights and that perpetrators would be prosecuted. Compared with other international conventions to combat human trafficking, the European Council Convention is more far reaching with respect to the protection of victims. The relevance and innovative approach of the European Council Convention consists, firstly, in its affirmation that human trafficking is a violation of human rights and a threat to human dignity, and that there is a need for increased legal protection for the victims of human trafficking. Secondly, the Convention covers any kind of human trafficking, whether inside the country or cross-border trafficking, and whether the trafficking is linked to organised crime or not; it also covers any kind of abuse, such as sex slavery, forced labour, etc. Thirdly, through this Convention a monitoring system has been established to ensure that the parties to the Convention implement its provisions effectively. Fourthly, the Convention emphasises placing the equality of the sexes at the forefront.

In the following, the basic contents of the Convention will be explained:

- The first chapter lists the purposes of the Convention regarding increased protection of victims. A definition of human trafficking from the Palermo Protocol follows, and it is stressed that the Convention covers any kind of human trafficking.
- The second chapter contains detailed provisions on preventive action and other provisions against human trafficking. The chapter includes provisions on policy formation that might contain researches, information campaigns, education, training, and social and economic measures directed both at those social groups that are weakest with respect to human trafficking, and at the employees combating it. Furthermore, there are special provisions that aim at reducing demand for human trafficking, including through information campaigns and education. The strengthening of border controls and the increased security of travel documents are also part of the preventative measures.
- The third chapter discusses the protection of victims' rights. Victims under the age of 18 are provided with special protection. The victims' personal information must be protected. There are provisions for various kinds of assistance to victims, such as legal aid, counselling and information regarding rights, interpreting services, when needed, financial support, access to health services and access to education for children. At the same time there are provisions for co-operation with non-governmental organisations (NGOs) or other entities that provide support for victims, their rehabilitation and protection. Aid to the victims may not be conditional upon them testifying against the organisers of human trafficking. There are also provisions that pertain to the victims' residence permits and how to carry out their return to the country of origin. Furthermore, there are provisions that member states of the European Council must, through legislation, ensure that victims have a minimum of 30 days reflection period in order to distance themselves from their sellers and make an informed decision regarding collaboration with the police authorities.
- Chapter four pertains to penal legislation, how to criminalise human trafficking, and various issues that concern human trafficking in penal code of the member states according to the definition of the Convention on Human Trafficking. States are encouraged to consider whether to criminalise the use of the services of victims. The emphasis is placed on imposing heavier punishments when the life of the victims is endangered, when violations are

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<sup>35</sup> See the URL: <http://www2.ohchr.org/english/issues/trafficking/standards.htm>

<sup>36</sup> See the URL: <http://www2.ohchr.org/english/issues/children/rapporteur/index.htm>

perpetrated against children, when violations are committed by public officials while on duty and when organised criminal groups are behind the crimes.

- Chapter five concerns the investigation of cases, prosecution and criminal procedure. There are specific provisions on witness protection and the protection of their families against possible acts of reprisal. Furthermore, there are provisions covering state jurisdiction on their territory, on board ships or aeroplanes under the flag of the relevant state, and regarding criminal violations by their citizens in other states.
- Chapter six includes provisions concerning the promotion of international co-operation in order to prevent human trafficking and protect and provide aid to victims.
- Chapter seven provides for a special monitoring system where a particular group of specialists will be established in order to monitor the implementation of the Convention.
- Chapter eight deals with the relationship between the Convention with respect to other international conventions in this field. It states that the Convention does not affect the rights and obligations that its member states have undertaken in other conventions.

Furthermore, the Icelandic authorities must also keep in mind the European Council Directive from 29 April 2004 on residence permits for third state citizens who are the victims of human trafficking or who have been illegally transported from one state to another and who work with the proper authorities.<sup>37</sup> Likewise consideration must be given to the European Council Framework Decision of 15 March 2001 on the Standing of Victims in Criminal Proceedings<sup>38</sup>.

### **Organization for Security and Co-operation in Europe (OSCE)**

The Organization for Security and Co-operation in Europe (OSCE) has been active in the fight against human trafficking. OSCE has 56 member states in Europe, North America and Central Asia. The Organization for Security and Co-operation approved an Action Plan against Human Trafficking in 2003 (*OSCE Action Plan to Fight Human Trafficking*), and in 2005 a new provision was added on the human trafficking of children. The Action Plan encourages the OSCE member states to take the initiative to prevent human trafficking, to prosecute the perpetrators and to protect the victims, as the case may be, with the assistance of the OSCE institutions and of the on-site delegations located in 19 different countries in South East Europe, East Europe, the Caucasus countries and in Central Asia. Furthermore OSCE also appointed a special representative in 2004 to combat human trafficking (*Special Representative and Co-ordinator for Combating Trafficking in Human Beings*) who has the role of increasing awareness of all manifestations of human trafficking and assisting in promoting political will in order to manage the problem. The representative also assists OSCE member states in meeting their obligations and gives advice if they so wish. Furthermore, the representative co-ordinates actions by member states against human trafficking and works with other international organisations and associations.

The OSCE ministerial meetings that are held annually have passed resolutions concerning human trafficking that are politically but not legally binding. The latest of these resolutions from recent years involve human trafficking for forced labour (*Decision on Combating Trafficking in Human Beings for Labour Exploitation, MC.DEC/8/07*), an increase in efforts to combat human trafficking, including for forced labour through a comprehensive and proactive approach (*Decision on enhancing Efforts to combat trafficking in human beings, including for labour exploitation, through a comprehensive and proactive approach, MC.DEC/14/06*) and the struggle against human trafficking (*Decision on combating trafficking in human beings. MC.DEC/13/05*).

The Icelandic authorities have supported the fight of the OSCE against human trafficking by rendering optional contributions on three occasions to projects. In 2003 the Icelandic government contributed ISK 2.5 million for the strengthening of the work done by the OSCE in Bosnia and Herzegovina against human trafficking and the sexual exploitation of women and girls – there the problem was endemic and actions taken by the government against the problem were only in their earliest stages. Furthermore, in February 2005 the Icelandic government contributed ISK 2 million for the strengthening of the work done by the OSCE against human trafficking and the sexual exploitation of women and girls in Bosnia and Herzegovina; they did this in light of the emphasis that the Icelandic

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<sup>37</sup> Directive No. 2004/81/EC.

<sup>38</sup> Council Framework Decision No. 2001/220/JHA.

authorities place on this important issue under the auspices of OSCE. Furthermore, in December 2005 it was decided to allocate ISK 3.2 million to the OSCE's fight against human trafficking: for direct assistance to the victims of human trafficking and for the publication on behalf of the Organization of a new series of papers by the Organization on human trafficking in member states.

### **The Nordic Council of Ministers**

In the forum of Nordic co-operation the fight against human trafficking has been at the forefront from the turn of the last century. In 2002 the Nordic Council launched a campaign called: *The Nordic Baltic Task Force against Trafficking in Human Beings*. The purpose of the campaign was to inform the public, in particular the buyers and possible buyers of sexual services, about trafficking in women. The purpose of Iceland's participation in the project was also to inform those women who apply for work permits in Iceland as night-club dancers of their legal rights. After this campaign had ended, the project *Nordic-Baltic Regional Inter-agency Network Support, Protection, Safe Return, and Rehabilitation of Women VOT for Sexual Exploitation* was launched. On behalf of Iceland, many public agencies took part in the project, as well as NGOs that assist the victims of sexual violence, in addition to the European Women's Lobby that is managing the project. The principal goal is to establish a co-operation network inside each country and to strengthen collaboration between these networks in the Nordic countries and in the Baltic countries. It is also the goal of this project to develop concerted efforts to provide the victims with legal, social and health aid, psychological services, and the possibility of a safe return to their home country with accompanying support in order to begin a new life, if the victim so wishes. The Icelandic government has participated in financing a number of projects inside the countries of origin of the victims of human trafficking. The fight against human trafficking continues to be one of the priority projects of Nordic co-operation.

The co-operation between the Nordic Council of Ministers and the neighbouring countries within the European Union, Estonia, Latvia and Lithuania, is built upon a collaboration plan between the Nordic countries and the Baltic countries concerning equal rights, which was agreed by these countries' ministers for equality affairs in 1998. The 10<sup>th</sup> anniversary of the agreement was celebrated at a joint meeting of the ministers of the eight states in Estonia in May 2008. At the meeting it was decided that the collaboration should be continued, and human trafficking is one of the principal items on their agenda.

### **Council of the Baltic Sea States**

During the sixth ministerial meeting of the Council of the Baltic Sea States, held in Reykjavík in 2006, it was decided to transfer the Nordic-Baltic Task Force against Trafficking in Human Beings to the Council of the Baltic Sea States for the purpose of promoting wider collaboration in the member states of the Council of the Baltic Sea States and in adjacent areas. Following this, a Council of the Baltic Sea States Task Force against Human Trafficking was established (CBSS-TF-THB). The Task Force's mandate extends to the middle of 2011.

The principal objective of CBSS-TF-THB is to combat human trafficking in the area through preventive work and action to protect and assist victims. The task force focuses on victims who are 18 or older and will therefore be an addition to the activities of a working group for the project *Children at Risk*, done by the Council of the Baltic Sea States (*Working Group for Children at Risk* (WGCR)). The Government Agency for Child Protection in Iceland participated in the project Children at Risk during the years 2002–2004, when the project was moved to the Directorate of Immigration.

The Council of Europe Convention on Action against Trafficking in Human Beings (2005) is the basis for the operations of the TF-THB. Identifying possible victims, who are regularly found outside their country of origin, is one of the main stress points in the work, as is the training of embassy staff in the country of origin, transit or destination, because embassy employees may be the first link between the victims and the authorities in their country of origin.

During the next years an emphasis will be placed on a collaborative project with UNODC, with the participation of NGOs, police and the judicial system in the area around the Baltic Sea, concerning assistance to victims, an educational and information campaign in the area, projects concerning an improvement in data gathering and researches and, finally, a comparative report on the legal environment concerning human trafficking.