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Danish Refugee Council

DANISH IMMIGRATION SERVICE



Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc.

Fact finding mission to Iran 24th August – 2nd September 2008

Copenhagen, April 2009

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Overview of fact-finding reports published in 2008 and 2009

Protection of victims of trafficking in **Nigeria**, Report from Danish Immigration Service's fact-finding mission to Lagos, Benin City and Abuja, Nigeria, 9 – 26 September 2007
2008: 1

Protection of victims of trafficking in **Ghana**, Report from Danish Immigration Service's fact-finding mission to Accra, Ghana. February 25 to March 6 2008
2008: 2

Recruitment of IT specialists from **India**, An investigation of the market, experiences of Danish companies, the attitude of the Indian authorities towards overseas recruitment along with the practices of other countries in this field. Report from the fact finding mission to New Delhi and Bangalore, India
4th to 14th May 2008
2008: 3

Report of Joint British-Danish Fact-Finding Mission to Lagos and Abuja, **Nigeria**. 9 - 27 September 2007 and 5 - 12 January 2008
2008: 4

Cooperation with the National Agency for the Prohibition of Traffic in Persons and other related matters (NAPTIP). Report from Danish Immigration Service's fact-finding mission to Abuja, **Nigeria**. 14 to 24 February 2009
2009: 1

Human Rights Situation for Minorities, Women and Converts, and Entry and Exit Procedures, ID Cards, Summons and Reporting, etc. Fact finding mission to **Iran** 24th August – 2nd September 2008
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1. Preface, sources and terms of reference

1.1. Preface

The Danish Immigration Service's (DIS) previous Fact Finding Mission to Iran took place in 2005. The aim of this mission was to update the information gathered from the previous mission and to gather information on new relevant topics, especially in the light of developments in recent years.

DIS, in cooperation with the Danish Refugee Council, planned a joint Fact Finding Mission to Iran with a stopover to conduct a meeting with an international organisation in Turkey. The mission took place from 24 August 2008 to 3 September 2008.

Upon return from the mission, the delegation arranged further meetings in London on 2 and 3 October 2008.

In preparation for the mission, the delegation consulted the Danish Embassy in Tehran. The embassy assisted the delegation in identifying relevant meeting partners and in arranging the meetings. The sources were selected upon the evaluation of the embassy not only in relation to their relevance and credibility but also with due consideration to the need for discretion so as not to jeopardise the work or personal security of human rights experts working in Iran. During the mission the delegation arranged additional meetings with sources that were identified while in Tehran.

1.1.2 Sources

The delegation had meetings in Tehran only, since all the western embassies and international organisations are located in the capital. The delegation held meetings with representatives from several western embassies, four international organisations, an attorney at law, a representative from a Christian church, the Nejat Society, government officials, the judiciary and airport police.

The delegation further met with Amnesty International and Kurdish Human Rights Project (KHRP) in London.

The following sources are part of the Iranian Government: Judiciary of Iran, Ministry of Foreign Affairs and the Immigration Police. All international sources consulted considered the Nejat Society to be a government affiliated organisation, even though it calls itself a Non Governmental Organisation (NGO). Some sources did consider, though, that the Nejat Society might be able to provide credible information¹.

Other sources are quoted in the report as "an international organisation", "a western embassy", "an Attorney at Law", etc. When the same wording is used for more than one source a number is added.

All individuals and organisations referred to in this report were advised of the purpose of this report and care has been taken to present their views in an accurate and transparent way.

¹ The Nejat Society consists of former MKO members. Their main activities are counter-propaganda lobbying, re-establishment of family links between Iranian families and their relatives (MKO members) residing in Ashraf Camp, and social activities to reintegrate the returning former MKO members into Iranian society.

Organisations, authorities and individuals consulted (alphabetically listed):

- A Christian church in Tehran
- Arash Sametipour and Ebrahim Khodabandeh, representatives from the Nejat Society
- An international organisation (1), Iran
- An international organisation (2), Iran
- An international organisation, Turkey
- A western embassy (1), Iran
- A western embassy (2), Iran
- A western embassy (3), Iran
- An Attorney at Law
- Drewery Dyke, Amnesty International, London
- Gh. Mahdavi, Director General, Bureau of International Affairs, Judiciary of the Islamic Republic of Iran
- H. Mirfakhar, Director General, Consular Affairs and Amir M. Miri, Director, Department of Nationality and Refugee Affairs, Ministry of Foreign Affairs
- Rachel Bernu and Catriona Vine, Kurdish Human Rights Project (KHRP), London
- Said Hamid Sajdrabi, in charge of passport border control at Imam Khomeini Airport (IKA) Immigration Police.

1.1.3 Terms of reference

The number of Iranian asylum seekers in Denmark during the period 1 January to 31 October 2008 reached a total of 126. The total number of asylum seekers in Denmark during this period reached 1,830. Iran is amongst the five highest ranking countries from which Denmark, at the present time, is receiving asylum seekers.

The terms of reference of the fact finding mission were to gather information on the following issues:

Kurds

Mujahedin-e Khalq Organisation (MKO) - sympathisers and former members

Monarchists and sympathisers

Women

Conversions

Exiting and entering Iran

Description of Iranian ID cards

Summonses and reporting at specified times

Gasoline riots in Tehran, June 2007

Draft evasion / desertion

The report comprises information obtained in Iran, Turkey and the United Kingdom and from reports from a variety of recognised sources. It is not exhaustive; if some information is not included, this should not be taken to imply that it does not exist; simply that it was not obtained by the mission team. The report does not include any opinion or policy.

1.2 The influential political changes that have taken place in Iran, since the last mission in 2005

A major influential event that has had a great impact on the political environment in Iran was the presidential election in June 2005 that resulted in a change of president in August 2005.

President Mohammed Khatami, who served as the fifth president of Iran from August 1997 to August 2005, had been elected on the basis of his viewpoints on political and social reform. During Khatami's two terms as president, there were signs in Iranian politics that Khatami intended to move Iran in the direction of more openness and of a cultural approach towards the West².

However, the reform oriented programme, that Khatami was trying to implement, was disturbed by the interference of religious hardliners who continued to control key state institutions such as the judiciary and security forces³. When the Conservatives regained control of Parliament in February 2004, Khatami's reform initiatives came to a complete halt.

In the June 2005 presidential elections, the hardliner conservative Islamist Mahmoud Ahmadinejad, former mayor of Tehran, won the second round of the elections by a stunning victory⁴.

The ultra-conservative stance of President Ahmadinejad soon began to set its mark on Iranian society and according to an article published by Radio Free Europe/Radio Liberty⁵, human rights observers, international organisations and Iranian activists expressed renewed concerns about the human rights situation in the country. The article pointed to the fact that Ahmadinejad had banned broadcasts of western music and that he had appointed officials with security and intelligence backgrounds to the Ministry of Interior and to provincial government positions. Due to the political development, these human rights observers, international organisations and Iranian activists feared that the human rights situation in Iran would only worsen.

Within a year of his presidency, Ahmadinejad granted police powers to the Basij (Farsi for "mobilised"), a paramilitary force founded by Ayatollah Khomeini in 1979, and currently subordinate to the Iranian Revolutionary Guards Corps, or IRGC (in Farsi "Pasdaran-e Enghlab-e Eslami"). The Basij, also known as the "Moral Police" is made up of volunteers from various groups in society. Amongst these groups are school children, students, teachers, doctors, engineers, and other professionals. The Basij is organised throughout Iran on a regional basis, with its top command consisting of paid high-ranking officers from the IRGC⁶.

The Basij was an important actor in the Iran-Iraq war (1980-1988). At the present time, one of its main functions is to act as "moral police" enforcing Islamic cultural codes of behaviour, such as requiring women to veil in public and prohibiting male-female relations⁷. The Basij not only

² Home Office, Country of Origin Information Report – Iran, United Kingdom, 4 May 2007

³ "Khatami: Iran must have democracy", 11 March 2001. http://news.bbc.co.uk/2/hi/middle_east/1214212.stm. [Accessed 5 November 2008]

⁴ "Iran's Presidential Election", 27 June 2005, http://www.economist.com/agenda/displayStory.cfm?story_id=4123204. [Accessed 5 November 2008]

⁵ "Iran: Pioneers of Human Rights?", 26 December 2005, <http://www.rferl.org/content/article/1064183.html>. [Accessed 5 November 2008].

⁶ "Niruyeh Moghavemat Basij Mobilisation Resistance Force": <http://www.globalsecurity.org/intell/world/iran/basij.htm>. [Accessed 5 November 2008].

⁷ "Basij - The 9 million strong Revolutionary People's Militia of Iran". 31 January 2006. <http://www.memri.org/bin/articles.cgi?Page=archives&Area=ia&ID=IA26206>. [Accessed 5 November 2008].

harasses women and students, they have also instituted a systematic practice of taking over territory that belongs to peasants and farmers. This practise of land-confiscation by the government can be seen as targeting ethnic and religious minority groups, and has also been highlighted in a United Nations (UN) report by the special rapporteur on adequate housing⁸.

Iranian Supreme Leader Ali Khamenei, President Mahmoud Ahmadinejad, and Iranian Cabinet members often declare that they are Basij members and speak warmly of its culture⁹.

Use of the death sentence has increased within the presidency of Ahmadinejad. The number is estimated to be 177 executions in 2006 increasing to at least 317 in 2007 and 346 in 2008. The actual number is presumably higher. The execution of minors in 2008 reached at least eight people according to information from Amnesty International¹⁰, an increase compared to three known executions in 2007.

Following the change of president and a considerable deterioration of the basic human rights situation in Iran¹¹, the delegation set out to gather information on certain issues that may have worsened under Ahmadinejad's ruling. According to all international sources consulted, a serious problem is the arbitrariness with which the Iranian authorities persecute individuals and the arbitrariness in the application of the law.

⁸ Yildiz Kerim & Tanyel B, Taysi: "The Kurds in Iran. The Past, Present and Future". Pluto Press, London 2007.

⁹ "Basij - The 9 million strong Revolutionary People's Militia of Iran". 31 January 2006.

<http://www.memri.org/bin/articles.cgi?Page=archives&Area=ia&ID=IA26206>. [Accessed 5 November 2008].

¹⁰ Amnesty International: "Iran: Human Rights in the spotlight on the 30th Anniversary of the Islamic Republic", 5 February 2009. <http://www.amnesty.org/en/library/asset/MDE13/010/2009/en/03d99921-f378-11dd-b339-21ceadf1e5ba/mde130102009eng.html>, [Accessed 24 March 2009].

¹¹ "UN: Hold Ahmadinejad Accountable for Iran Rights Crisis", <http://www.hrw.org/en/news/2008/09/17/un-hold-ahmadinejad-accountable-iran-rights-crisis>. 17 September 2008, [Accessed 5 November 2008].

2. Kurds

2.1 General information on the areas largely populated by Kurds

The Kurdish population is one of the largest ethnic minority groups in Iran. The number of Kurds in the country varies considerably according to the available sources. The estimate ranges from five to twelve million people¹² out of a total Iranian population of an estimated 70.5 million¹³. The vast majority of the Kurds in Iran live in the mountainous region of Western Iran from the Turkish and Iraqi borders in the west to Lake Urumieh in the north east. The area covers approximately 95,000 square kilometres.



The only province that is governmentally recognised as Kurdish is the province of Kurdistan¹⁴. However, the area that is often called Iranian Kurdistan extends from Kurdistan province in the central area to Western Azerbaijan province in the north and Kermanshah province in the southern area¹⁵.

¹² Freedom House estimates that there are 5 million Kurds living in Iran (Freedom in the World 2008 – Iran, 2 July 2008 <http://www.freedomhouse.org/template.cfm?page=22&year=2008&country=7413>), where as Amnesty International's estimation is 12 million (source: "Human Right abuses against the Kurdish Minorities", Amnesty International Publications MDE 13/088/2008. Date published: 30 July 2008). The number is 7-9 million according to Kerim Yildiz & Tanyel B. Taysi: "The Kurds in Iran. The past, Present and Future". Pluto Press, London 2007,.

¹³ U.S. Department of State. Background note – Iran, March 2008. <http://www.state.gov/r/pa/ei/bgn/5314.htm>.

¹⁴ The province of Kurdistan is situated in the western part of Iran and bound by Iraq to the west, the province of West Azerbaijan to the north, Zanjan to the north-east and Kermanshah to the south. The capital of Kurdistan Province is the city of Sanandaj.

¹⁵ Yildiz Kerim & Tanyel B. Taysi: "The Kurds in Iran. The past, Present and Future". Pluto Press, London 2007.

The area of Iranian Kurdistan consists of mountains, plains, villages and large urban centres. The Kurdish population are mainly situated in and around the big cities of Kermanshah, Sanandaj and Mahabad¹⁶.

The economic environment in Iranian Kurdistan varies. Kurds living in the Zagros mountain range mainly rely on pastoral farming and herding in a modified tribal economic set-up. The Kurds of the plains often live in villages and rely on agriculture and, to a smaller extent, on pastoral farming. The main crops of this region are tobacco, barley, rice and wheat. Kurds living in urban settings are mainly occupied as teachers, traders and shopkeepers. Of course some Kurds may also be working in other sectors; however, Kurds will not be working in high levels of government¹⁷.

2.2 The human rights situation amongst Kurds in general

A western embassy (1) considered the human rights situation in Iran, in general, to be deteriorating over the past few years. This tendency is also reflected in the situation of Kurds in Iran.

It was added that while it is difficult to obtain reliable information in Iran on the situation of Kurds, it is obvious that even Kurds who are not politically active face increasing difficulties with the Iranian authorities, such as discrimination and harassment solely on the grounds of their ethnicity.

A western embassy (2) explained that Kurdish human rights activists, including women's rights groups, are under increasing and strict observation by the Iranian authorities.

2.3 Punishment for imputed political activity

The 5th book of the Penal Code deals with political offences. However, there is no definition of what constitutes a political offence according to the Penal Code, but the punishment for being a political opponent, according to sections 498 and 499 of the Penal Code, is severe¹⁸. Article 498 criminalises the formation of groups aimed at perturbing the security of the country and states that two individuals, engaging in political activities without defining themselves as a group, may be considered as a group by the authorities. Hence, two collaborating individuals may be seen as a threat to national security for which they can then be prosecuted and subjected to a prison sentence from two to ten years. Individuals who join a group and have knowledge of the group's objectives can be sentenced three months to five years of imprisonment under the Penal Code, section 499.

An international organisation in Turkey explained that politically active groups and individuals are considered a threat to national security by the Iranian government. If the Iranian authorities consider a person to be working against national security, (the person may for example be accused of being a spy or of cooperating with an oppositional religious, ethnic or political group), they may face severe punishment ranging from ten years imprisonment to execution. For instance, being in possession of a CD, a pamphlet or something similar made by the Kurdish Democratic Party of Iran (KDPI), Komala or other Kurdish organisations, may be considered as an act against national security. This form of persecution for political activities is a problem all over Iran. However, the authorities are watching Kurdish areas and Tehran more carefully than other areas.

¹⁶ Marked with red circles in the map above.

¹⁷ Yildiz Kerim & Tanyel B. Taysi: "The Kurds in Iran. The past, Present and Future". Pluto Press, London 2007.

¹⁸ "National Laws and Measures: Counter-Terrorism Regulation of Biology".

<http://www.interpol.int/Public/BioTerrorism/NationalLaws/Iran.pdf>. [Accessed 5 November 2008]

It was explained that political propaganda activities of the Kurdish movements have changed character over the past few years. While just a few years ago the most common way to communicate their messages was the use of pamphlets, the methods today has advanced to include emails and web logs¹⁹.

The organisation explained that laws are applied arbitrarily and often no strong evidence is required in court cases concerning political activities. Sharia Law is pervasive in the Penal Code and will always be considered the superior law. While some judges will apply the Penal Code others may choose to apply Sharia Law and this makes the system of justice unpredictable and arbitrary. Hence, a person accused of having committed a political offence risks arbitrary treatment as one judge may choose to apply Sharia Law, while another judge may apply the Iranian Penal Code. There may be acts for which no punishment has been set in law. In that case, the judge is responsible to search the law and practice for an applicable punishment.

The Attorney at Law also explained that rulings following Sharia are in general stricter. The severity of sentences in general has increased over the past few years. Authorities showed more tolerance during Khatami's presidency than the present government that shows no tolerance for organised activities of any kind that may be seen as oppositional to the system.

It was added that there has been stricter rulings by the judiciary in relation to organised political activities after Ahmadinejad came into power. Before his presidency, carrying a leaflet or just a piece of paper in Kurdish language, which might be seen as an indicative of political activity, would often "only" be punished with up to one year in prison. Under the present government of Ahmadinejad, the practice in punishment has changed and the same offence may now lead to ten years imprisonment.

Amnesty International confirmed that in the current political and human rights climate, accusations leading to trial for what may be seen as political activities have appeared to increase. Carrying, for example, leaflets in Kurdish which contain material that could be seen by state officials as opposing the government or other aspects of state policy could be grounds for being criminally charged under provisions relating to insult, criticism or even national security, depending on the subject matter. Whereas under the government of President Khatami such "offences" may have resulted in a one year prison sentence, depending on the case, such charges often appear now to attract the maximum penalty available to judges.

The Code of Criminal Procedures sets out which state organisations may carry out arrests. It appears that – as was the case under previous governments - officials from the Ministry of Intelligence may carry out arrests, although not apparently empowered to do so, save, it is believed, in certain cases of financial crimes (a revised Code of Criminal Procedures, under development circa January 2009 expressly provides for the power of arrest by Ministry of Intelligence officials, though it is not known when this law will be passed). On the other hand, the Basij are also an authority able to carry out arrests, though officials from both of these organisations, and perhaps others as well, may carry out arrests without presenting any form of identification, while wearing plain clothes, not identifying to which state body the arresting office is affiliated. In practice, depending on the nature of the arrest, it may be impossible to know who carried out the arrest. Even once released, the person detained may never know who made the initial arrest or why.

¹⁹ Please refer to chapter 12 for more information on web bloggers.

According to Amnesty International, levels of harassment of many Kurds, notably those active in civil society, has, in recent years, increased. Reports appear to suggest that officials from the Ministry of Intelligence (sometimes called Ministry of Information, in Farsi, Vezarat-e Ettela'at) may harass and intimidate activists in order simply to gain information which could be used against the individual at a later date, whether in respect to the individual targeted, or others that s/he may know, depending on the nature of their activities. In this respect, authorities appear to seek information on individuals just to be in possession of such information and thereby intimidate people and create a general fear among people.

2.4 Ways of political involvement

An international organisation in Turkey emphasised that a person opposing the government does not need to be high profile to be persecuted. A person may not necessarily know the historic background or political goal of the movement or organisation he/she is imputed to be affiliated with. Hence, knowledge about the movement may be sparse and limited to knowing that it is working for a cause. As an example, a person may have been told by his uncle to carry a parcel from one place to another. The person may not know what he or she is carrying and may not even be in a position to question or refuse the demand from his uncle. If the authorities catch the person, and it turns out that the parcel contains for instance pamphlets or CDs with political views opposing the government, the person carrying the information will be treated as a political opponent, even though the person in question has never been involved in the movement and hardly knows anything about it. This indicates that high level profiles as well as low profile people may risk persecution. Whether a person is harassed or not does not depend on the person being a high or low profile opponent of the government. While a high profile person is sure to be persecuted when arrested by the authorities, even a low profile person, who has been in possession of documents with a political message, may face persecution even if the person does not know anything about the movement in question.

Deputy Director Rachel Bernu and Legal Director Catriona Vine of Kurdish Human Rights Project (KHRP) explained that it is of no relevance to the Iranian authorities at what level a person is politically active in acts that are considered to be in opposition to the government. As for the conditions of Kurds in Iran, there has been a change in attitude amongst authorities since Ahmadinejad came into power. The level of discrimination has risen and the level of tolerance has decreased. As an example of government harassment, KHRP explained that if a person has any kind of controversy with the authorities, the authorities may produce a list with names of individuals affiliated with that person, even if their relationship is distant. This is a way of intimidating ordinary people. Any individual on the list may be considered a potential threat to the government and may, at some point, face problems with the authorities. The severity of the problem varies depending on the motive of the authorities to include the people on the list. KHRP concluded that the making of such lists by the authorities, is something that has been repeatedly reported on by the majority of the sources that they are in contact with in Iran.

2.5 Iranian Kurds in Turkey

The United Nations High Commissioner for Refugees has four offices in Turkey, with the main office in Ankara and a presence in Van, Istanbul and Silopi²⁰. The office in Van is the office most often approached by Iranian asylum seekers; probably because Van is closest to the Iranian border.

²⁰ Background Note Protection of Asylum Seekers and Refugees in Turkey, UNHCR, 27 August 2008

An international organisation in Turkey stated that most often Iranian refugees leaving Iran for Turkey do not apply for asylum with the Turkish authorities at the borders, since the purpose of the person leaving is not to apply for asylum with the Turkish authorities but most often to reach either a UNHCR office or to go to Europe to apply for asylum. The present number of Iranian asylum seekers and refugees registered in Turkey amounts to around 3,000 of which approximately 1,000 are Kurds.

KHRP explained that UNHCR conducts refugee status determination (RSD) for non-European asylum seekers in Turkey. RSD is carried out in the UNHCR offices of Van and Ankara. UNHCR shares its views on the protection needs of the asylum seekers with the Turkish government, which takes UNHCR's opinion into consideration when deciding on applications for temporary asylum.

However, according to KHRP, the Turkish Ministry of Interior does not always recognise UNHCR's refugee status determination decisions and there are serious flaws in the Turkish asylum system. Sexual exploitation of asylum seekers as well as corruption in Turkey is a reason why many asylum seekers do not remain in Turkey but move onwards to seek protection in Europe. KHRP explained that state- as well as non-state actors exploit asylum seekers reaching Turkey. They have knowledge of abuse by hands of state and UN officials but also by employers within the Turkish Government²¹.

Furthermore, there is a big difference in how the Turkish authorities treat Kurdish refugees compared to how they treat non-Kurdish refugees. The Kurdish refugees face discrimination in Turkey due to their ethnicity.

2.6 Crossing the border from Iran to Turkey

Many of the consulted sources stated that it is possible for people who want to leave Iran to do so by crossing the border between Iran and Turkey. Some sources did not have detailed information on travel routes and means of travelling, whereas other sources provided more detailed information.

The western embassies (2 and 3) informed that Kurds could easily cross the border to Turkey when leaving Iran. However, the two embassies did not have detailed information on how the people leave Iran and where they cross the border.

KHRP explained that many Iranians are moved across the border by use of smugglers. The border is very porous and checkpoints can easily be avoided. The majority of asylum seekers in Van province cross the border from Iran illegally using smugglers. They cross the border either on foot or riding mules. Often the people who enter Turkey illegally cross the Iranian Turkish border without documents and are required under Turkish law to register in the border province where they entered. The majority are registered in Van and in the neighbouring provinces of Agri and Hakkari.

An international organisation in Turkey explained that there are different ways to leave Iran and enter Turkey. One way is to enter Turkey as a tourist. There is no need for any form of visa for Iranians visiting Turkey as the entry stamp means they can stay in Turkey for 90 days. Another way to enter Turkey from Iran is to make use of local shepherds or smugglers.

²¹ "Refusing Refugee: Investigating the Treatment of Refugees in Turkey", KHRP Fact Finding Mission to Van and Ankara, February 2007, p. 46.

However, while shepherds do help people cross the border; professional human smugglers outnumber shepherds, as transporting people illegally across borders has become a multi million-dollar industry. While shepherds have the advantage of knowing the area in detail, they are not the main means of smuggling individuals across the border. There is a daily traffic across the Turkish-Iranian border of all kinds of goods being smuggled by shepherds as well as organised smugglers. The smuggling involves many goods ranging from gasoline to drugs and many kinds of transportation are used including mules and trucks. The smuggling takes place during daytime as well as night time. There is no organised network of cooperation across the border, though. Both sides of the border work independently. Once the border is crossed the goods are often loaded onto another means of transportation.

The long border separating Iran and Turkey has been electronically monitored for the past 10-12 years. A heat sensing system has also been taken into use. It is doubtful, however, that the entire border is monitored by heat sensors. Human traffickers transporting people across the border apparently overcome the obstacle of heat sensors by covering the smuggled people in wet blankets.

When making use of human smugglers to leave Iran, it is common that the person leaving Iran contacts a person (an “agent”) in Iran who will inform of the conditions and the price of being smuggled. This agent will then organise the contact with a smuggler. When the contact is established, the person wishing to leave Iran will not pay the smuggler until arrival in Turkey. Often the money will be deposited with a trusted person in Iran who is also put in contact with the smuggler. When the smuggled person has reached Turkey the smuggler will receive the money through the trusted person in Iran. The price for being smuggled across the border is approximately 1,000 USD.

It was further explained that in many cases the person leaving Iran with the help of human smugglers is taken to a village in Iran near the border area to Turkey. The border is often crossed by a caravan with mules or by foot. The caravans often transport diesel or other sorts of commodities, so as not to rouse suspicion that people are being smuggled. Upon arrival in Turkey, the first stop is often Van. However, many refugees wish to go to Istanbul, which can be reached by bus from Van, in order to continue onwards to Europe. The refugees who stay in Van will most often register with the UNHCR office in Van who will then conduct refugee status determination (RSD).

KHRP confirmed that there are many ways of travelling from Iran to Turkey. They agreed that the first stop for many Iranians fleeing from Iran to Turkey is either Van or Hakkari. Many may register with the UNHCR office in Van or continue onwards to Istanbul or Ankara in order to reach the final destination in Europe.

An international organisation in Turkey further explained that many Iranians cross the border off the main roads in order to avoid the border guards. It is possible to cross the border and go to Van or Hakkari without using the main roads. On the other hand, border guards can be bribed which makes it possible for some refugees to leave Iran passing through the Turkish border check points.

In relation to leaving Iran to enter Turkey as a tourist, it was explained that around one million Iranian tourists visited Turkey in 2007. Some of these tourists enter Turkey by bus. These buses are also used by Iranians wishing to flee Iran and many enter Turkey illegally on board these tourist buses. This, however, has to be arranged with the bus driver beforehand. The bus driver will be paid to engage in this act.

Passengers on board the bus give their passports to the bus driver who, when arriving at the Iranian border, leaves the bus with the passports to go to the Iranian passport control. By not presenting the passport of the fleeing person, the bus driver ensures that the person is able to cross the border without the passport being checked and without having an exit stamp in the passport. In some cases, the person may not have permission to leave the country due to any unsettled issues with the authorities. If the person's passport had been checked, the person would not have been allowed to exit the country.

A bus driver may also be engaged in acts of prolonging the stay in Turkey for Iranians who have entered Turkey as tourists. In these cases, the bus driver will be paid to bring passports of Iranians staying illegally in Turkey to the border. By bribing the border guards, the bus driver ensures that a passport is stamped with exit and entry visas although the owner of the passport does not cross the border. This way it is possible to prolong the "legal" stay in Turkey. It was added that a bus trip from Tehran to Istanbul costs around 80 USD.

An international organisation further explained that it is also possible to travel from Tehran to Istanbul or Ankara by train. The train from Tehran to Istanbul includes a ferry ride across Lake Van. The ferry trip takes hours, since each train wagon is put on the ferry separately. A one way ticket with the train costs approximately 50 USD. The train from Tehran to Ankara leaves three times a week.

Finally it was added that smuggling of people during the winter period often results in losses of lives due to severe weather conditions. However, the human smugglers work during all seasons without consideration of weather conditions.

It was explained that Iranian and Turkish Kurds are very different. Therefore, there is not necessarily any organised cross border cooperation based on common ethnicity. They have different cultures depending on the country they are situated in and speak different dialects of the Kurdish languages²². In spite of these differences, they share a common heritage of being Kurdish and due to this they most often will help one another.

2.7 Deportation at the border

An international organisation in Turkey explained that a person being returned to Iran by the Turkish authorities would not necessarily be handed over to the Iranian authorities. This means that the Iranian person who has been sent back from Turkey to Iran can make a new attempt to cross the border.

In other cases, Iranians caught by Turkish patrolling police, when trying to pass the borders into Turkey irregularly, may be forcefully sent back across the border. Presumably, summary deportations by Turkish authorities of Iranian citizens, who had tried to cross the border into Turkey, have also taken place. However, this information could not be verified.

In some parts of the area between the two borders there are mines. Presumably, the Turkish border guards sometimes threaten Iranians fleeing Iran to return across the border or be shot.

²² Often Kurds in Iran speak the Kurdish dialect of Sorani, whereas the dialect often spoken in Turkey is called Kurmanji.

KHRP explained that deportation is often conducted through official checkpoints. Though, KHRP supposed that there have also been unofficial exchanges of prisoners taking place. KHRP has previously (in 2007) been in contact with an NGO in Van, who explained that some informal and unofficial agreements exist between Turkey, Iran and Syria. Furthermore, there have been confirmed cases of the Turkish police having abused and ill-treated people during the deportation procedures²³.

KHRP added that some Iranians who try to enter Turkey by crossing the borders illegally are detained or even executed at the border by Turkish authorities. Such an incident was described in a daily newspaper “Ülkede Özgür Gündem” on the 28 June 2006. An exchange had taken place between Turkey and Iran, and a Kurdish guerrilla was allegedly executed by Turkish forces at the border. KHRP also had knowledge of another case involving an Iranian shepherd who was killed by Turkish border guards²⁴.

When asked to describe the demography of the Iranian Kurds fleeing from Iran to Turkey, it was explained that it is not possible to categorise the refugees who travel through Turkey, since the group consists of single mothers with children, big families as well as single women and men.

²³ KHRP: Refusing Refugee: Investigating the Treatment of Refugees in Turkey, Fact Finding Mission to Van and Ankara, February 2007, p. 40. [Accessed 5 November 2008].

²⁴ Ibid. P. 40, footnote 86.

3. Mujahedin-e Khalq Organisation (MKO) - sympathisers and former members

The MKO also known as Mojahedin-E Khalq (Mek) and People's Mojahedin Organisation of Iran (PMOI) is an Islamist socialist organisation formed in 1965. It is led by husband and wife Masud and Maryam Rajavi. The MKO has been classified as a terrorist organisation by several countries including the United States and the EU. In 2002, EU member states decided to freeze the assets of the MKO. However, this decision was annulled by the European Court of Justice in December 2006. While the MKO is still on the EU's terror list, the organisation was removed from the UK's list of alleged terrorist groups in June 2008.

Even though the MKO has a worldwide network of members and supporters, it is an unpopular organisation among many Iranians because of its armed struggle against Iran during the past 30 years. This struggle has led to the losses of many official and civilian lives. The MKO has conducted several bombing campaigns and other violent attacks in Iran and other countries and fought on Iraq's side in the 1980-1988 Iran-Iraq war, where MKO fighters were used in suicidal, mass wave attacks against Iranian forces. Even though the activities of many individual MKO members may be minor, MKO members are considered traitors by many Iranians.

The MKO has its head quarters in Ashraf Camp in Iraq. Ashraf Camp is a military base situated some 100 kilometres west of the Iranian border and 60 km north of Baghdad²⁵. Saddam Hussein gave the camp to the MKO in the 1980s. Following the invasion of Iraq in 2003, the Coalition Forces disarmed the MKO. According to the Iranian organisation for former MKO members, the Nejat Society, approximately 3,400 MKO members still live in Ashraf Camp. Since 2003, these members are considered protected people under the Geneva Convention.

3.1 Return to Iran of MKO sympathisers and former members

Several sources explained that while sympathisers and even former members of the MKO in many cases can return to Iran without facing problems, as many will be covered by the amnesty announced by President Khatami in 2003, it is not possible to conclude that all returnees will not face problems. Many sources pointed to the fact that prosecution and persecution of returnees does not depend solely on the acts committed by the returnee. The arbitrariness in the Iranian judicial system and the need of private people to settle personal scores leaves no room for certainty as to the safety of the returnee.

According to a western embassy (3), sympathisers with the MKO can return to Iran. Having sympathised with the organisation will not cause problems with the authorities.

The Nejat Society explained that they recommend that sympathisers in Europe, who contact Nejat's offices in Europe, go to the Iranian embassy in their country of stay to get a passport. If a person has only sympathised with the MKO he/she will not face problems upon return to Iran, even if the authorities are aware that the person has sympathised with the MKO.

²⁵ Global Security: "Camp Ashraf": <http://www.globalsecurity.org/military/world/iraq/camp-ashraf.htm>. [Accessed 5 November 2008].

3.2 Amnesty to returnees

In 2003, President Khatami announced an amnesty offer to former members of the MKO in Iraq stating that those who repent past acts are welcome back in Iran where they will be judged according to law. According to Khatami, the amnesty did not cover leaders of the MKO²⁶.

According to the Nejat Society, around 500 to 600 former MKO members have left Ashraf camp and have returned to Iran voluntarily during the period 2004 to 2007. These returnees have not been prosecuted and they have not faced problems with the Iranian authorities or private people upon return, as the Iranian authorities will only prosecute a returnee if a private person brings a complaint.

Gh. Mahdavi, Director General, Bureau of International Affairs, Judiciary of the Islamic Republic of Iran informed that the policy of granting amnesty to Iranian citizens who have committed “terrorist” acts against Iran and Iranian nationals stems from 1981. It is a general amnesty that applies to all “terror” organisations. Sometimes the amnesty is announced on television and in newspapers. Former “terrorists” who lay down their weapons, discontinue their relations with the “terror” organisation they belong to and promise not to continue with the “criminal activities” are welcome to return to Iran without risking persecution or punishment for former criminal acts - even if they have killed innocent people in Iran. In spite of the fact that Khatami’s announcement stated that the amnesty did not include MKO leadership, Mahdavi said that even MKO leader Ms Maryam Rajavi could return freely to Iran under the above conditions. Mahdavi explained that it is not of benefit to the government to punish members of “terror” organisations one by one, since the number of members amount to several thousands. The purpose of granting amnesty serves to persuade these members to leave the “terror” organisations.

According to an international organisation in Turkey, former MKO members who repent and cooperate with the Iranian government may be granted amnesty. High profile members are not granted amnesty though. The organisation is unsure of the kind of assurances MKO returnees are given. The amnesty was announced before President Ahmadinejad’s time and he does not recognise it. Furthermore, the amnesty is not stated in any law or regulation and is not written down anywhere. If an MKO returnee repents his/her past activities, the returnee may be granted amnesty and may be well received by the Iranian authorities. However, MKO members who have participated in armed operations against Iran cannot repent their acts according to Iranian criminal law. The criminal law therefore makes granting of amnesty obsolete in these cases. Furthermore, if a private person accuses the returnee of having committed a criminal act against that person, even in the past, the authorities must pursue the claim despite the amnesty. It was finally added that a person handing out MKO propaganda in Iran could face 10 years imprisonment.

The Attorney at Law confirmed that there is no amnesty law as such in Iran and that it is not possible to find anything in writing that guarantees amnesty to former MKO members who return to Iran. There may be an announced amnesty, but there is no guarantee that it will continue to be in effect. The amnesty can be withdrawn at any time. It is a serious problem that there may be an announced amnesty but that it has no legal foundation. This creates uncertainty among former members of “terror” organisations who wish to return to Iran believing that they can do so freely because of the announced amnesty.

²⁶ The Christian Science Monitor, “Inside a group caught between three powers”, 31 December 2003. <http://www.csmonitor.com/2003/1231/p10s01a-woiq.htm>. [Accessed 5 November 2008].

The Nejat Society explained that returnees receive an amnesty card which means that they will not be prosecuted.

This was confirmed by an international organisation in Tehran (1) who explained that upon return to Iran, former MKO members were provided with a card which indicated that they had been granted amnesty. This card can be considered as a "laissez passer" and has a kind of protective purpose. The Amnesty card was provided at the time of the former government, under former President Khatami, after the 2003 occupation of Iraq by the US, in order to allow former MKO members to return to Iran. The issuing of a card has only been granted to a small number and the card is not issued anymore. Further, the card has an expiry date, and not even one card has been re-issued. To the knowledge of the International Organisation no people in possession of this card, have been prosecuted.

The organisation explained that during 2007, organised return from Ashraf Camp slowed down and has now come to a complete halt because the authorities fear that the former MKO members may become active again in Iran. The authorities will only accept gradual return and prefer that the returnees do not come straight back to Iran but move from Ashraf Camp to a temporary camp in Iraq before returning to Iran, so that the first step of the repatriation process is to get away from the MKO. The organisation informed that to their knowledge, no former MKO members were active again after having returned to Iran.

3.3 Prosecution/persecution of MKO sympathisers and former members

An international organisation in Tehran (1) has been involved in the repatriation process of some former MKO members who expressed the wish to return to Iran. This process can be seen as facilitated return to the extent that the organisation provided the returnees with air transportation and had to make sure that, under the auspices of the international organisation, the return was interpreted as "safe" by all parties including the Iranian Government.

The organisation explained that in order for a person in Ashraf Camp to be assisted by the organisation, an interview was carried out to ensure that the return was voluntary. The organisation further planned travel arrangements, and was responsible for a passive follow-up upon arrival in Iran. The organisation either contacted the returnee by phone or through the Nejat Society in the provinces.

The organisation informed that the number of former MKO members returning from Iraq to Iran since 2003 is around 350. The organisation has not actively and systematically monitored the returnees but explained that while many returnees are traumatised and unable to find work, they are not in danger of persecution. This must be understood in the context of the Iranian government wanting the former MKO members to return and the fact that the Iranian Intelligence Service have previously ensured that the returnee can come back to Iran without facing problems, unless they are under the threat of revenge from individuals.

The situation has recently changed, and the organisation is unaware of whether the Iranian government still wants to have the former MKO members back to Iran.

The organisation is not aware that anything has happened to former MKO members upon return to Iran. If anything happened to a returnee, it would jeopardise the returns of former MKO members in general. Furthermore, if a returnee was harmed upon return to Iran, the organisation would know

immediately as the MKO leadership of Ashraf Camp would inform the organisation and the incident would be on websites soon after. According to the international organisation, the families in Iran look after their returning relatives themselves and would report incidents to the organisation.

Amnesty International in London found it unlikely that the MKO would publicise a problem faced by a returnee to Iran if that person had spoken out against the MKO itself. Amnesty International stated, however, that it had received reports of harassment of former MKO members, including of those who had returned voluntarily to Iran, including at least one who is reported to have left Iran once again, to seek asylum in a European country.

The Attorney at Law explained that according to Iranian law, individuals who have committed crimes against Iranian nationals must be prosecuted. If a former MKO member returns to Iran and is accused by a private person of having killed someone in the past, the court is obliged to process the case even though the returnee has been granted amnesty. On the basis of this, it is plausible that former members of the MKO may be able to return to Iran without facing punishment. However, while some criminal activities may be overlooked, others must be prosecuted. This again reflects the arbitrariness within the Iranian judiciary.

According to a western embassy (1), former low ranking MKO members will not be punished upon return to Iran, on certain conditions. According to the embassy, these conditions are most often that the former member renounces the MKO (sometimes openly), shows remorse, lays down his/her weapons and that the person has not killed anyone while being affiliated with the MKO. However, the embassy did not have any knowledge of cases concerning high ranking MKO members who have returned to Iran, but presumably they would be detained for acting against national security and/or terrorist activities.

According to the Nejat Society, it is the criminal acts committed as an MKO member and the rank within the MKO that is important to the Iranian authorities in terms of prosecution. Former MKO members, regardless of their rank within the MKO, will be prosecuted if they have killed an Iranian national or if they are caught in a “terrorist” act. Furthermore, former MKO members who do not return voluntarily but are extradited, like one of the staff members of the Nejat Society, are prosecuted for the crimes they have committed as MKO members even if they have not killed Iranian nationals. The aforementioned member received a sentence of 15 years. However, he was released after four years on the condition that he does not leave Iran.

An international organisation in Tehran (1) explained that individuals who have committed minor crimes are not prosecuted upon return to Iran. A returning person will only be prosecuted if accused of having committed a serious crime against another person. The organisation does not know if this is the only reason for being prosecuted, and is not aware of any such cases.

The organisation believed that, in general, it is safe for former MKO members to return to Iran, even though not all international organisations agree with them on this point. However, the organisation did stress, that a group of people consisting of leaders who have committed serious crimes, were likely to face severe problems with the authorities upon return.

An international organisation in Turkey only knew of 12 people who have returned to Iran from Ashraf Camp. It was added that the organisation was not aware that anyone is monitoring the situation of the returnees. The organisation knows that one of the returnees who left Ashraf Camp

for Iran is now in Turkey. He has been so severely tortured that the organisation is not able to talk to him.

In addition to the above information, the Attorney at Law gave an example of a case where a former MKO member had returned to Iran and was granted amnesty. While living abroad the returnee had served a prison sentence for selling drugs. The Iranian authorities became aware of this crime and one month after his return to Iran he was arrested because of his crime abroad even though he had served his prison sentence.

3.4 Lists of MKO members who cannot return

Several sources informed the delegation that there are lists with names of MKO members who are wanted by the Iranian authorities. According to the sources consulted, these people will be prosecuted if they return to Iran. The number of people on the different lists varies from source to source. Several sources stated that the fact that a person is not mentioned on the list does not mean that the person will not face problems with the authorities upon return to Iran.

A western embassy (3) stated that it was aware of a list with names of 87 MKO members living around the world who can not return to Iran. All 87 members have leading positions within the organisation.

An international organisation in Tehran (1) explained that the Iranian authorities have a list of 70-80 MKO members they want to prosecute. All members hold high positions within the MKO. Apparently, MKO members with low profiles are not of interest to the Iraqi and Iranian authorities. This information is inconsistent with the information provided by the majority of the sources, who in previous statements above have explained how even low ranked people will face prosecution if they have been involved in terror acts that have caused the death of innocents. The delegation presented this inconsistency to the organisation, which had no further comments or elaborations to their statement on low profile members.

According to the Nejat Society, there is a list of 60 to 80 MKO members who have been involved in "terrorist" operations and killings. These members are all decision makers within the MKO. The Iranian authorities want to prosecute these members.

Mahdavi has previously stated²⁷ that all former MKO members can return to Iran without facing punishment if they repent past activities and lay down their weapons. He later stated that four to five members of the MKO are not welcome in Iran due to their activities for the organisation.

4. Monarchists and sympathisers

A western embassy (3) stated that Monarchists, be it as movements or individuals, have no influence in Iran and therefore are not at risk of persecution. "They are simply not considered a threat to the ruling government".

Another western embassy (1) stated that monarchist groups still exist in the universities in Iran.

According to an international organisation in Turkey, monarchist groups and sympathisers in Iran are often people who are descendents of the Shah's family lineage or they may have been working

²⁷ Please refer to chapter 3.2.

with or for the Shah with the privileges this may have given them. They are pro Shah and pro the former way of ruling.

The organisation added that, while Monarchists are not as active as other political oppositional groups, they still exist as a movement. It was further explained that as the popularity of the government decreases, the popularity of any kind of opposition increases. Many sympathisers may not want to join a monarchist group but support it simply because they want to oppose the government which in turn may consider the sympathisers as opposition. This may be the reason why Monarchists have gained more popularity during the past ten years and are again being watched carefully by the authorities. It is no longer true that Monarchists are not considered a threat to the opposition. Any individual considered to be in opposition risks persecution if the person is seen as being a threat to the government.

This view, of the international organisation on the increasing focus on Monarchists, may be illustrated with the bombing of a mosque in Shiraz for which Iranian authorities blamed Monarchists. The attack took place 12 April 2008. 12 people were killed in the blast and more than 200 were wounded. Iranian Interior Minister Mostafa Pourmohammadi is quoted saying at a news conference that "The Shiraz blast was an act of sabotage and a plot by the enemies of the Iranian people in the name of monarchism"²⁸.

According to the Washington Post, "Interior Minister Mostafa Pourmohammadi said the suspects were "monarchists," referring to supporters of the family of the last shah of Iran, who fled the country during the 1979 revolution. Former crown prince Reza Pahlavi lives in the United States and promotes a change of government in Iran. The ex-monarch's family still has supporters in Iran, but they are not known to be politically active"²⁹.

An international organisation in Turkey explained that many supporters of the Shah were military people and that their sons may also want to join the Iranian army. It is not possible, though, for a declared Monarchist to join the Iranian army as the Iranian government does not want to risk a coup.

To the knowledge of the international organisation, the nature of the activities of the Monarchists is usually peaceful. For instance, the Monarchists staged a protest in Iran in July 2008. At 9pm, people in support of the Monarchists were to turn on the high beam of their cars and drive around the city. In another peaceful demonstration, supporters of the Monarchists were to wear a white shirt and go to a certain park.

Monarchist groups also distribute leaflets and spread their messages through the internet. They are particularly active outside Iran, for instance in the United States, where they run three TV stations.

²⁸ "Iran 'blames monarchists for mosque blast", AFP, 8 May 2008. http://afp.google.com/article/ALeqM5j8BKK-ywb6HBNMUuywFBNd_qoswQ. [Accessed 5 November 2008].

²⁹ Iran Accuses U.S., Britain In Fatal Blast, Thomas Erdbrink, Washington Post Foreign Service, 9 May 2008 <http://www.washingtonpost.com/wp-dyn/content/article/2008/05/08/AR2008050803318.html>. [Accessed 5 November 2008].

5. Women

All consulted sources agreed that since the change of government in 2005, women's rights in Iran have deteriorated. Lately, the Iranian government has declared that it is of great importance to them to re-introduce religious moral values into society. This policy affects society in general but also women in particular.

One way, for the Iranian government to reinforce Islamic values in the daily life of Iranians³⁰, is by the persistent use of morality police, Basij, in the streets³¹.

5.1 Basij – the “Morality Police” in Tehran

A western embassy (3) stated that for the last two years there has been an increase in the presence of Basij in the streets of Tehran. The Basij consists of both men and women.

There is, however, a difference in the presence of the Basij around the wealthier and more western northern parts and the less wealthy and more traditional southern parts of the city. The Basij is much more active and present in the streets in the southern parts of Tehran than in the northern parts of the capital

A western embassy (2) confirmed that the presence of the Basij in the streets of Tehran has increased during the first six months of 2008. The embassy, which is located in the northern part of the city, has witnessed a rise in the number of women wearing the black top to toe dress (“chador”) in the streets of northern Tehran. Most likely, this is a consequence of the Basij being much more present and visible in this area. This increase is a clear indication that women's rights are deteriorating.

According to a western embassy (1) the Basij patrol the streets in groups – of both males and females – to check on the clothes people are wearing. The male Basij officers wear dark green suits while the women wear the traditional black chador. The Basij patrol in parks, squares and other crowded areas and sometimes they sit and wait in their police vans until they decide to make a strike. There have been many incidents of girls that have been caught by the Basij. Now and then, the Basij will use violence and force to make the girl cover up properly or they may shout at her and tell her she is improperly dressed and order her to go home and change her way of dressing.

In other cases, the girl may even be taken to the police station. The police may confiscate her personal identification papers and then order her to come back and get the documents at inconvenient hours. A person taken to the police station two or three times due to immorality may be detained. In some cases, the victim will be released on bail or the parents might be forced to mortgage their house as bail. The embassy believed that in some cases the girl may be sentenced to lashes.

The embassy added that there are areas in Tehran where the Basij can be expected to be present. However, the areas may very well change from time to time, and therefore it is problematic to name specific areas. Though it is often areas around universities and crowded squares. However, the Basij

³⁰ ”Basij - The 9 million strong Revolutionary People's Militia of Iran”. 31 January 2006.

<http://www.memri.org/bin/articles.cgi?Page=archives&Area=ia&ID=IA26206>. [Accessed 5 November 2008].

³¹ Please refer to chapter 1.2 for more information on the Basij.

may also show up unexpectedly in order to intimidate the population. This way it is never known where and when the Basij will strike. A common strategy is to pick one district of the city or town at a time, where the patrols are intensified during a certain period of time.

Not only is there an increased presence of Basij in the streets, but recently, they have also become stricter in addressing anyone wearing bright colours and boys or men with western haircuts. However, there is some “logic” in the way the Basij work. During spring- and summertime they crack down on anyone who is considered to be immorally dressed. They check to see if the clothes are too tight and revealing and if the colours are too bright. The Basij are aware that in the summertime many girls prefer to wear bright colours and loose scarves on warm days. It is, however, difficult for girls and women to dress in coherence with the unwritten rules that the Basij apply, as it is difficult to know what colours may be deemed as too bright. One day it may be one colour, the other day it may be another. This exemplifies the arbitrariness of the working methods of the Basij.

An international organisation in Turkey stated that the Basij are stricter and more active during certain periods of the year. During the time of Ramadan and springtime, there is an obvious increased presence of the Basij in the streets. It was added, in accordance with a western embassy (1), that the Basij conducts crackdown campaigns, which are both organised and random. In these campaigns the Basij mainly cracks down on immoral usage of the hijab (Islamic headscarf) and western dressing.

A western embassy (1) referred to an incident that had happened to a local staff member. The staff member’s daughter brought a pink Barbie bag to school. The bright, pink colour of the bag was considered to be an inappropriate and un-Islamic colour by the school. The girl was sent back home and told to have a new red, green or black bag with her the next day.

It was added that in some schools, girls at the age of five had to wear the hijab even though according to Iranian law the age of wearing hijab is nine.

5.1 Crackdown on immoral behaviour in the private and public sphere

A western embassy (3) explained that the authorities had previously conducted raids within private homes to check on people’s dress code.

However, this act is illegal according to law and the Chief of Justice therefore interfered. A compromise between the Judiciary and the authorities was made. The result of this compromise was that the Basij now checks that the Islamic dress code is kept in private companies (especially foreign) coffee shops and other public places where people gather.

A western embassy (1) confirmed that raids focusing on dress codes are made against western companies. Local employees at western companies are not forced to wear hijab at work by their employer. However, the authorities do not accept this and therefore the Basij conducts raids within the domain of western companies. In these situations, women may risk being taken to the police station where they may be beaten or kept in custody to be released on bail.

5.2 Single and divorced women

There was a general consensus among the consulted sources that in most cases single and divorced woman can live in Tehran without problems. However, most sources pointed to the fact that this may very well be different in smaller and/or more traditional, religious cities.

Two western embassies (2 and 3) explained that, in general, single mothers and divorced women can live in Tehran and that this in itself is not a problem. However, it was added that an uneducated woman will most likely have to go back to her family as she will find it hard to support herself financially. Having an education may give the woman a certain status within society that makes it more acceptable for her to live on her own without a husband supporting her.

An international organisation in Turkey stated that whether a woman can live on her own or not depends on the social environment surrounding the woman and her family. In general, it depends on the family, the neighbourhood and the society at large. It makes a difference whether the woman lives in a big city or a small town and on her financial situation. In smaller towns it is often more difficult to survive socially due to the importance of the social stigma. It is also difficult to find work and support oneself. The possibility of support from the family may therefore be vital for the wellbeing of the woman.

However, a woman living on her own could in some places be at risk of being seen as morally depraved. She may be in danger of harassment and may risk sexual abuse. It was emphasised that it is difficult to say where this may happen. It can happen in Tehran in less educated families as well as within wealthier areas and it may happen in smaller towns in the countryside. Again, this depends on the specific social environment that the individual woman is part of.

5.3 Punishment for adultery

The Attorney at Law explained that the mentality amongst some judges when handing down a death sentence is “I will kill you if and if you are innocent you will go to heaven”. He added that being taken to court is like playing Russian roulette. It is a big problem that the Penal Code is interpreted very differently depending on the judge presiding. Sharia Law is often used in very strict, traditional and religious parts of the country and less often in Tehran and larger cities. Though, it cannot be ruled out that Sharia judgements may occur even in Tehran. It is always up to the individual judge to decide how to interpret the law³². This causes an arbitrary justice system and one can never know how an offence will be punished.

The Attorney at Law explained that according to Sharia a person accused of adultery may swear her or his innocence on the Quran three times, stating that he or she did not commit adultery. The person will then be free of charges. However, if two witnesses³³ swear on the Quran that the accused person did commit adultery, then the accused person will be prosecuted and sentenced. According to Sharia, the penalty for adultery is execution.

³² The Attorney at Law mentioned that he knew of a former judge who would dismiss cases adultery.

³³ U. K. Home Office, Iran Country Report – Iran, 4 May 2007 writes that: “According to a DIRB report of 1995, under the Islamic Penal Code adopted by the Majlis in November 1995, those found guilty of adultery (the “Burden of Proof”, this either by confession or the testimony of four just men or three just men and two just women, (..)), are subject to execution by stoning”.

The Attorney at Law added that anyone can easily go into the street, even in front of the court house, and find volunteers who, for a small amount of money, will testify against an accused person.

Several sources (embassy 1, 2 and 3) confirmed that the penalty for adultery is execution and that it is being practised.

A western embassy (2) explained that adultery is punished by stoning. In 2007, a woman was stoned to death for committing adultery³⁴. However, it is not only within the legal system that stoning is used as punishment for adultery; it may also take place within the private sphere by family members or relatives. Often the motive for this is explained as saving the honour of the family³⁵.

The Attorney at Law explained that in December 2002, the Judiciary sent a moratorium to all courts in Iran ordering them not to sentence anyone to death by stoning³⁶. However, so far no law has been implemented banning stoning. He added that according to the Iranian Constitution, all judges are independent and can rule in accordance with Iranian law, including Sharia Law, depending on what they find applicable in the individual case. Therefore, the Judiciary can not order the judges not to issue sentences of stoning, as it is part of the law, including Sharia. In conclusion, if the Judiciary wants to change the practice of stoning, this can only be done by changing the law and abolish stoning. Only by doing this, the judges will no longer be able to rule stoning as a punishment. However, changing the law, implicates overruling Sharia Law by civil law, which is unlikely to happen. The Attorney at Law added that even though the Head of Judiciary has announced that stoning should not be implemented, courts are still putting the judgments into effect and therefore it is not likely that stoning as a punishment will be abolished any time soon.

5.4 Rape

According to the sources consulted, a woman who has been raped will often find herself in a situation where she, and not the rapist, is held responsible for the crime. Moreover, she may even be accused of and convicted for the crime committed against her.

KHRP stated that in several cases of raped women, the woman is accused of having sex outside the marriage, which may lead to conviction for adultery. Bernu and Wine are not aware of any statistics on this matter.

A western embassy (3) gave an example of a case involving a university student who was raped by her professor. The student made a complaint against the professor. The court found the student guilty of dressing improperly and therefore blamed her for the incident. The embassy was not aware of the punishment given.

³⁴ See also the following external sources for information on punishment of adultery by stoning: "Eight women and a man face stoning in Iran for adultery", July 2008. <http://www.guardian.co.uk/world/2008/jul/21/iran.humanrights>. [Accessed 27 November 2008].

"Iran 'adulterer' stoned to death", 10 July 2007.

http://news.bbc.co.uk/2/hi/middle_east/6288156.stm. [Accessed 27 November 2008].

³⁵ Please refer to chapter 5.6 for more information on honour killing.

³⁶ "Iran: Woman faces stoning for adultery", 10 July 2007.

http://www.amnesty.org.uk/news_details.asp?NewsID=17408. [Accessed 27 November 2008].

A western embassy (2) explained that in cases of rape, it is often the woman who is held responsible, both by family and by the court. A woman who has been raped is at risk of being ostracised by her family and by the local community. Such a woman will find it difficult to survive on her own since she is now an outcast. Women in this situation will often end up in prostitution in order to make a living.

5.5 Shelters for women

According to some of the sources consulted, shelters no longer exist in Iran, whereas other sources informed that some women's shelters still exist in Tehran. However, these sources were not sure that these shelters could guarantee the safety of women in need of protection.

A western embassy (3) stated that shelters existed in Tehran a couple of years ago. However, these shelters have been closed down because it turned out that the employees at the shelters were exploiting the women who had sought protection.

However, a western embassy (2) and an international organisation in Turkey stated that shelters still exist in Tehran. These shelters are for socially vulnerable women, who are often without family or who have been beaten by their husbands.

Four years ago, 27 government-run shelters for women existed in Tehran. However, it is doubtful that these shelters still exist.

Presently, some human rights lawyers have founded shelters for women. It was added that criteria for staying in the shelters are not clear and that it is uncertain how safe the privately run shelters are in terms of providing women with the necessary protection.

5.6 Honour killings

There is evidence that honour killings occur in Iran. However, it is difficult to estimate the extent of honour killings in the country. It is not possible for NGOs to collect data on the matter, since it is rarely recorded by the authorities. Furthermore, an international organisation in Turkey stated that the Iranian government is not actively trying to prevent honour killings from taking place. Some of the consulted sources stated that honour killings mostly take place within the Kurdish communities; however, other sources disagreed with this and pointed to honour killings as being a general problem in Iran.

An international organisation in Turkey stated that honour killings are not a Persian tradition but a tradition that is most often practised within Arab, Kurdish, Azeri and Turkish cultures³⁷.

KHRP disagreed with this and stated that the concept of honour is pervasive in the Persian culture throughout the entire country of Iran. Hence, honour killings are not only practised amongst Kurds and Arabs. KHRP has repeatedly heard similar claims from Turkish, Syrian, Iranian, and Iraqi officials during its lifetime as an organisation, but this is not dissimilar to xenophobic claims that one might find in Europe, citing immigrants as the source of social problems, when in fact it is well known that social problems do not come from one group. These types of claims are often made against the 'other' by the Persian minority-majority in Iran to justify their power position.

³⁷ See also report from Amnesty International "Iran: human rights abuses against the Kurdish minority", June 2008. <http://www.amnesty.org/en/library/asset/MDE13/088/2008/en/d140767b-5e45-11dd-a592-c739f9b70de8/mde130882008eng.pdf>. [Accessed 18 November 2008].

A western embassy (3) stated that there are regional differences in terms of the use of honour killings and that it is not likely to take place in big cities. The last recorded honour killing took place in early 2008, in a village called Kani Dinar in the Mariwan region. Approximately 2,000 demonstrators took to the streets protesting against the killing. The authorities did not intervene, as they normally would when people demonstrate, since the demonstration was not aimed at the government but at the specific family responsible for the killing, and at honour killings as such.

The authorities do not tolerate honour killings and the person executing an honour killing can be punished. According to the embassy, in theory, honour killing is punishable by death. However, there are no statistics on neither the number of honour killings nor prosecutions for this crime. Within the last five years the embassy has not heard of anyone being convicted of committing an honour killing.

In terms of gathering information on the practice of honour killings, an embassy (2) explained that human rights organisations have a difficult time watch-guarding prosecutions of honour killings since they are hidden away.

5.7 Legal consequences of a mother leaving Iran with her child without the permission of the father

The Attorney at Law informed that the Family Law was introduced in 1975. Recently, Parliament has been presented with a draft for changes to the Family Law. However, according to the Attorney at Law, this will not bring any changes in terms of whether a mother can travel abroad with her child. The permission of the father is still necessary unless the father is no longer present (dead or for other reasons registered as absent).

The Civil Code regulates all aspects concerning family matters in detail. As Sharia is pervasive throughout Iranian legislation, including the Civil Code and Family Law, this means that one judge presiding in one court may interpret the Civil Code or the Family Law in one way, whereas another judge in another court may interpret the same law in another way, with Sharia as the ultimate guidance.

According to Family Law Section 7.1, a woman must have the consent of the father of her child if she wants to leave Iran with the child. Failing to obtain the consent of the father will result in criminal charges against the woman if the father of the child lodges a complaint against her. She will then be liable according to Sharia and may face a lifetime sentence or the death penalty.

An international organisation in Turkey explained that according to the Iranian Civil Code, the father and paternal relatives are natural guardians of the child. In the case of a divorce, even if the custody of the child is given to the mother, the father or paternal relatives are still guardians of the child. Therefore, the mother (holder of custody) should present the father's official consent (given through notary public) to add the child to her passport. Mere possession of custody is not enough for the mother to add the child to her passport, or to take the child abroad.

It was further explained that laws are applied arbitrarily and that Sharia Law is always stronger than ordinary laws. Some judges are religious and others have a legal background and while some judges may apply Sharia Law, others will apply legal law.

If a woman leaves Iran with her child without the permission of the child's father, it will be considered as abduction of the child. Punishment of the woman depends on whether the father lodges a complaint. The offence will be considered minor and may be punished with imprisonment for three months to two years. However, as with all cases before the Iranian courts, arbitrariness in judgements pervades the rulings. If, for instance, the father of the child is a person in a high position, the woman may face severe problems.

However, the Attorney at Law informed that if the father launches a complaint, the mother is liable according to Sharia Law, according to which she can be punished with a lifetime or death sentence.

A western embassy (2) stated that a woman leaving Iran with her child without the permission of the child's father is likely to face serious problems upon return to Iran. She may be prosecuted, however, the character of the punishment is not known to the embassy.

According to an international organisation in Turkey, women over the age of 18 can obtain a passport. If the father of the child gives the mother permission to leave Iran with their child, the child must be registered in her passport, as must the permission of the father. A divorced woman holding custody of the child still needs permission from the father of the child or a paternal relative if she wants to leave Iran with the child.

Mahdavi explained that according to Family Law a woman needs the permission of the father if she wants to leave Iran with their child. With this permission she can travel without facing legal problems. A woman leaving Iran with her child without the permission of the father of the child will not be punished for abduction under the Penal Code as it is a civil matter under the Family Court.

In relation to the above statement, it is important to stress the information given by the Attorney at Law, in which he stated that Sharia Law (which is included in the Family Code) may be applied to such cases and that this may lead to severe punishment as described earlier. The Attorney at Law was informed of the answer from Mahdavi. Hereafter, the Attorney at Law explained that Mahdavi may have been talking about Family Law, without mentioning the Sharia Law within the Family Law.

Mahdavi further stated that in terms of custody, when the parents are divorced, the court will decide who should be granted the custody of the child.

6. Conversion

An international organisation in Turkey stated that conversion of a Muslim to any other religion and the act of proselytising to Muslims is considered to be apostasy in Iran. In accordance with Sharia, apostasy is punishable by death or lifetime imprisonment, depending on the particular circumstances of the case. The arbitrariness in the application of law makes it difficult to know the degree of punishment for conversion. A person may never know which set of laws will be applied in his case. A verdict can be based upon Sharia or upon the Penal Code or the Press Code.

6.1 Legal basis

An international organisation in Turkey explained that Sharia Law defines two kinds of apostates. A man born from Muslim parents (even if only one of them is a Muslim) who, if found guilty of converting, shall be executed, while a woman shall be sentenced to life imprisonment if she does not repent. Those born from non-Muslim parents who had converted to Islam and then converted again to another religion, shall be invited to repent. If they refuse they shall be executed.

According to the international organisation, the Iranian national laws used in cases of conversion, besides Sharia, are, in particular, Art. 513 under the Penal Code and Art. 6 and 26 under the Press Code. Offences considered amounting to "insult" to religion can be punished by death or imprisonment of one to five years under Art. 513 of the Penal Code. Similarly, Art. 6 and 26 of the Press Code proscribe writings containing apostasy and matters against Islamic sanctities³⁸. Neither the Penal Code nor the Press Code specifically defines what activities constitute insult to religion.

The Attorney at Law stated that apostasy is a criminal offence according to the Penal Code. It has been part of the Penal Code since 1996, though it has been there "silently" and hence not so obvious. In 1999, a new section on apostasy was written into the Penal Code. According to the Attorney at Law, apostasy is punished by death.

It was further explained that Sharia pervades the Penal Code, although it is not present in all parts of the Penal Code. When the Penal Code does not describe a punishment or verdict, the judge shall apply Sharia Law. According to the Iranian Constitution, the judge must issue a judgement. Since Sharia Law has supremacy to any other laws, this is the law that the judge must turn to for guidance and interpretation.

Amendments to the Penal Code may result in apostasy being included in the Penal Code. In this case, any judge must rule the death penalty for apostasy whether he rules according to Sharia or according to the Penal Code.

6.1.1 The inclusion of apostasy in the drafting of a new Penal Code

The delegation sought to gather information on the draft Penal Code, which imposes the death penalty for apostasy. The death penalty for apostasy already exists in Iran under Sharia Law. At the time of the mission, the draft was awaiting before Parliament. Approval of the draft Penal Code will codify the death penalty for any male Iranian who leaves his Islamic faith. Women will be

³⁸ "UK Home Office Immigration and Nationality Directorate, Country Information and Policy Unit Country Report: Iran, 10 May 2004. <http://www.asylumlaw.org/docs/showDocument.cfm?documentID=3568>. [Accessed 5 November 2008].

sentenced to life imprisonment. The EU has expressed deep concern about the draft Penal Code in Iran³⁹.

On 9 September 2008, the Iranian Parliament voted in favour of the draft Penal Code. Parliament voted in favour of the new law with 196 votes for and just seven against. The draft still has to go through Iran's policy-making process before being implemented as law. At the time being, Parliament is reviewing it article by article, after which it will be sent to Iran's most influential body, the Guardian Council, who will then rule on it⁴⁰. This should take at least five months.

6.2 Punishment for conversion in practice

According to a western embassy (1) the Iranian Government has recently announced that it will put emphasis on the use of Islam and Islamic values in their governing of the country. The source added that the agenda of Iranian authorities is that "if you are not part of Islam then you will have difficulties with for example getting a job, practising your religion freely and marrying across religions".

An international organisation in Turkey added that, on the surface, Iranian society may to some extent seem tolerant towards other religions. Christians, Jews and Zoroastrians are protected religious minorities under the Iranian Constitution and Christians and Jews are represented in parliament. In relation to Christians, they have churches around the country and within the area of the church they can practice their Christian faith. However, the tolerance is not equally visible all over Iran. Restrictions on practising are higher in, for instance, Mashad and Tabris than in Tehran. Local communities as well as the judicial system will regard religious matters differently and stricter in some parts of the country than in other parts.

In addition to the above, several western embassies and an international organisation in Turkey stated that a major difficulty in Iran in many matters and in relation to conversion specifically, is the arbitrariness with which Iranians are treated, whether it is by the court systems or by the Iranian authorities. Judges have different views on apostasy and the law concerning apostasy is applied arbitrarily. Due to Iranian law and the randomness in applying it and due to the attitude of society, it is difficult to give a clear picture of the situation in Iran for converts. However, it is obvious that the situation has worsened in recent years.

According to a western embassy (3), punishment for conversion is not practiced and does not take place.

However, other sources consulted did not agree with this statement and according to the Attorney at Law, the punishment for conversion is the death penalty. He explained that if a private person accuses someone of conversion the government must intervene and a prosecutor will then pursue the private complaint. At this stage of prosecution, the person who made the complaint cannot withdraw it. It is up to the judge how to rule in the case of conversion. Some judges may try to avoid these cases at their courts (especially in Tehran). However, there are rulings on conversion in

³⁹ Please refer to Annex I – "Declaration by the presidency on the behalf on the EU concerning the consideration of a draft Penal Code in Iran".

⁴⁰ "Iran: 'Apostasy' bill appears likely to become law", 23 September 2008.

<http://www.compassdirect.org/en/display.php?page=news&lang=en&length=long&idelement=5599>. [Accessed 4 February 2009].

Iran, for example in Baluchistan and other provinces. Whether a person will be prosecuted and convicted for conversion is up to the individual judge.

A western embassy (3) explained that leaders of the Christian churches have stated that conversion only causes problems within the family and not with the authorities. Apparently, people who have abandoned the Islamic faith do not have any problems.

However, two other western embassies (1) and (2) disagreed and emphasised that apostates and converts in Iran face problems and that it is not true that there is freedom of religion in Iran. The growing number of conversions (the number is growing, however, the group remains relatively small) is considered a serious problem by the authorities. Many people choose to convert in secrecy since they fear the consequences. If conversion comes to the knowledge of the authorities, then the person may face persecution. According to a western embassy (1) people rarely convert openly.

A western embassy (1) stated that it is difficult to predict when and why a convert will be punished. However, it may be of influence how active and openly a person speaks about the conversion. According to the embassy, attending a church may not be as risky as speaking openly about the conversion.

6.3 Burden of proof for conversion

A western embassy (2) stated that the punishment for apostasy and conversion is the death penalty. However, it is a long process and the punishment can be modified if the convicted person regrets the act of conversion or if the person states that he/she has been mistaken. However, it is up to the judge to interpret the laws on the matter.

An international organisation in Turkey said that it is difficult to prove conversion since the person can repent. According to the organisation, a person may repent three times though it depends on the profile of the person. The organisation added that if a convert is caught by the Iranian authorities, he or she will be put in solitary confinement. The authorities will try to make the person change his/her mind about converting. If the person insists on the conversion, then the person will be punished.

6.4 Recent cases of punishment

An international organisation in Turkey informed that they were not aware of cases of execution where apostasy was the direct verdict. The organisation knew, though, that some years ago, a former Muslim priest (Imam) was found killed. He had converted, and presumably this was the reason he was killed. The organisation did not know who was behind the killing.

A western embassy (1) was aware of two recent cases of converts who have been arrested. One case concerned a group of people from Shiraz, which is situated in the south western part of Iran. The group was arrested a few months ago and Amnesty International has reported on the case⁴¹. Two individuals are still detained.

A Christian church in Tehran confirmed this incident and added that 10-15 people were gathered when the authorities intervened and arrested them. According to the source, these people were persecuted not only due to their religious beliefs but also because they were converts.

⁴¹ "Amnesty International concerned about five Christian converts detained in Iran", 31 May 2008. <http://www.payvand.com/news/08/may/1299.html>. [Accessed 17 November 2008].

The second case took place in August 2008. Two persons were arrested near the city of Esfahan some 340 km south of Tehran. A western embassy (1) had verified information that one of the persons was beaten by the authorities and died two weeks later because of the beating.

One of the converts in the second case was a “Hajj” (a Muslim that has undertaken a pilgrimage to Mecca). After converting he also began to proselytise. His situation was especially sensitive since he was a Hajj and presumed to be a strong believer in the Islamic faith.

6.5 Possibilities of conversion

6.5.1 Converting in Iran

According to a western embassy (1), conversion rarely happens within the Catholic and the Protestant church.

The embassy explained that the Assyrian Church in Tehran does not baptise converts and it does not accept converts. The embassy added that the Armenian Church does not accept converts.

A Christian church in Tehran stated that officially the church does not accept converts.

An international organisation in Turkey confirmed that the Armenian Church and the Assyrian Church do not accept converts. The organisation believed that some Evangelical churches accept converts. According to the organisation, the Evangelical churches are watched more carefully by the authorities because they preach in Farsi and because they actively proselytise.

A western embassy (3) explained that the church, Assemblies of God, preaches on Fridays. The prayers are in Farsi and there are shops in the streets around the church from which religious CDs in Farsi are sold. According to the embassy, the government has not intervened. “If the government did not want it to take place, it would close down the shops”.

A western embassy (1) stated, however, that they have not heard of these shops. And to their knowledge, the reason why the Iranian authorities do not close down Assemblies of God is because they probably use the church to keep an eye on who attends services. The embassy had been informed by the church itself, that spies attend the church services.

A Christian church in Tehran stated that officially the church cannot accept Muslim converts and that the church is careful not to criticise or act against the Iranian government. The source stated that, “We must be realistic. We are in a Muslim country and the government is always reminding us about this fact”.

When asked if a person who, after long consideration, wants to join a Christian community would be included in this community or not, the source stated that there are many details to this question and that one must look at the individual’s personal reasons for converting.

The source explained that a great number of young people wish to be able to certify that they have converted in order to go to the West, since they believe that conversion makes it easier to be granted asylum abroad. “Nowadays, young Muslim people feel under pressure and they feel that if they go to any church and are baptized, then they might have relief and find a way out of Iran”.

The source did not consider that everyone is sincere when asking for the blessing of a Christian ministry and considered it “conversion for convenience”.

A western embassy (1) considered that conversion is not the main reason why Iranians apply for asylum abroad. However, the embassy stated that the converts they have been in contact with do not use conversion as an “easy way” to the West. The embassy added that it may see around 10 asylum cases of converts a year. The embassy was aware of these cases, as it has been requested to verify the documents that Iranian converts present to the asylum authorities.

The embassy also knew of converts in Iran who would like to continue living in Iran but who find it very difficult to do so because of their conversion.

However, the embassy added that the Armenian Church is very rarely approached by converts and if anyone does approach the church in order to be baptised, the Armenian Church will reject the request.

An international organisation in Turkey told of an incident some years ago where a priest reported large numbers of conversions. The Government saw this as an organised opposition and therefore considered it a threat to Iranian law and order. The organisation had no specific details on the matter.

6.5.2 House churches

A western embassy (1) stated that most conversions take place within Christian groups in house churches. The embassy stated that some of the known groups are Pentecostal and Assemblies of God, but there are others that they did not know the names of. However, they do not seem to form a network; they are individual churches.

Since it is difficult, maybe even impossible according to the embassy, to convert under one of the Christian churches in Iran, many people who want to convert do so in house churches that will baptise converts. It is not easy to verify if a person has been baptised in a house church. Baptism in house churches may not be officially documented because it often takes place in someone’s living room. It is not an official church, just a private initiative of some people, i.e. nothing is documented and probably no list of people attending the services exists. However, the embassy mentioned that it may be possible that some groups have their own documents to certify a baptism.

According to an international organisation in Turkey, some house churches might baptise a person. Some house churches are also known to have referred converts to a specific church in Tehran, since this church provides baptism certificates and training, or to churches abroad, such as an Iranian church in Turkey, or online Iranian churches. The organisation added that Farsi speaking churches may conduct baptisms, but only in very limited numbers.

While the organisation estimated that there are around a thousand house churches in Iran, a western embassy (1) stated that it is difficult to know how many house churches actually exist in Iran.

6.5.3 Online conversion

According to an international organisation in Turkey, online conversion is possible. A person can get a certificate stating his or her belonging to a faith and receive religious training online. Iranians may contact US based cable/satellite TV channels such as Kalam-e Khoda or Tejat TV in order to

convert online. The organisation knew of cases where individuals had been provided with an online baptism certificate and recommendations from a church in the United States.

The organisation further stated that Evangelists proselytise along the Iranian-Turkish border on the Turkish side. Apparently, these proselytes are from the United Kingdom and as their aim is to convert as many as possible, refugees from Iran may be easy targets. The organisation did not know how many people had converted.

6.5.4 Sur place conversion

A western embassy (2) stated that if an Iranian refugee converts abroad, he/she can not go back to Iran as there is an effective control system amongst many Iranians abroad with connections to Iranian embassies.

In general, asylum seekers and refugees are kept under strict surveillance by any Iranian embassy and its network of informers. Thus, conversion abroad may very likely come to the knowledge of the Iranian authorities. The embassy explained that the Iranian Embassy in their home country has at its disposal a very strong network of informants, who keep an eye on Iranians living in that country.

According to an international organisation in Turkey, a British group of Evangelists conducted a mass conversion in the city of Van in Turkey four years ago. The group filmed the episode to document their missionary activities. This created problems for the converts as there is now visual evidence of their conversion that might be used against them by Iranian authorities upon return.

A Christian church in Tehran confirmed that if a convert returns to Iran from a country where he has converted, he might face difficulties. However, the source has not heard of any such cases but added that sometimes converts might risk the death penalty should they return to Iran.

6.6 Conversion from Shia Islam to Sunni Islam

According to an international organisation in Turkey, conversion from Shia Islam to Sunni Islam is not a problem for the government. This is more of a family problem, which may result in non state agent persecution.

6.7 Proselytising (missionary acts)

According to an international organisation in Turkey, missionary acts are forbidden in Iran according to Sharia Law⁴² and proselytising converts are likely to face execution or long prison sentences.

A Christian church in Tehran stated that missionary activities do take place in Iran. The source disapproved of these activities and sees the need to look aside from the obligation to proselytise as “a matter of judging and accepting the situation in Iran”.

⁴² The Iranian government has introduced legislation before the Parliament that would mandate the death penalty for apostates from Islam. Passing of this new draft Penal Code will make it literally impossible to proselytize in Iran. (see also “EU attacks Iran's new penal code”, 26 February 2008. http://news.bbc.co.uk/2/hi/middle_east/7264810.stm. [Accessed 4 February 2009].

The source explained that there is “some sensitivity among the authorities towards Christians who proselytise. No one can blame the Iranian authorities for that”. According to the source, most religious communities disapprove of missionaries who approach members of a religious community with the aim of converting the members to another faith.

A Christian church in Tehran stated that the Armenian Church is free to publish and preach in Armenian. The church has distributed 38,000 copies of the Holy Bible in Armenian. If it wants to publish books or pamphlets in Farsi, it needs permission to do so, as this may be seen as proselytising.

7. Exiting and entering Iran

The delegation consulted H. Mirfakhar, Director General, Consular Affairs, Ministry of Foreign Affairs; Said Hamid Sajdrabi, in charge of passport border control at Imam Khomeini International Airport, Immigration Police; several western embassies; an international organisation in Tehran and an international organisation in Turkey in relation to obtaining information on the procedures, rules and regulations on exiting and entering Iran.

7.1 Legal exit

A western embassy (3) explained that Iranian male citizens have permission to leave the country until reaching the age of military service. When reaching the age of military service, a person has to apply for permission to travel outside Iran. The permission can be obtained through a bank or at the airport. It was added that when a person obtains a passport and permission to leave, the person can also return to Iran. When a person has completed his military service, he is free to travel, if he does not have any issues with the authorities.

The embassy further stated that members of minority groups may face difficulties in obtaining the permission to leave, which indicates that not all Iranian citizens may be granted the permission even though they may qualify for this according to law. Minorities may be discriminated against, and it may be more difficult for them to obtain a passport or permission to leave Iran.

7.2 Revoking of permission to leave Iran

Sajdrabi informed that permission to leave Iran might be revoked in cases where the authorities find it necessary. This may be because a person has outstanding issues with the government or other reasons that may lead to the authorities revoking the permission. When asked, Sajdrabi did not specify the “other reasons”. Hence, a person may not be allowed to leave even though he or she has permission to do so. The Immigration Police may revoke the permission to leave anywhere in the airport, since the airport is under the jurisdiction of the Immigration Police.

7.3 Prohibition to leave Iran

Sajdrabi stated that if a person has a case pending before the court, the person cannot leave Iran. The person will be registered on a list of people who are not allowed to leave the country. The list appears in the computer system used by the airport personnel. Hence, an immigration officer sitting at one of the counters, examining the passport of the travelling person will see the list and will then prevent the person from travelling⁴³.

⁴³ Please refer to chapter 7.9 for description of the different counters and check points.

Mirfakhar confirmed that there is a list in the airport with names of people who cannot leave Iran. The people on the list have committed crimes and for this or other relevant reasons they are not allowed to leave the country. The other relevant reasons vary depending on the specific case. If a person on the list has already left Iran, the person may face problems on return. The seriousness of the problems depends on the crime that caused the person to appear on the list.

7.4 Illegal exit

The sources were consulted on the matter of return to Iran of Iranians who have left the country illegally.

Mirfakhar informed that a person who has left Iran illegally and who is not registered on the list of people, who cannot leave Iran, will not face problems with the authorities upon return, though the person may be fined.

It was added, that a person who has committed a crime and has left Iran illegally will only be prosecuted for the crime previously committed and not for leaving the country illegally.

However, a western embassy (3) stated that a fine is given for leaving the country illegally. The fine for illegal exit can run up to 50 million Iranian Rial which amounts to approximately 5,000 USD. To the knowledge of the embassy, people who have left Iran illegally are not detained upon return. The embassy did not know what happens if a person is unable to pay the fine.

The Attorney at Law confirmed that there is a fine for leaving Iran illegally. However, he believed the fine to be around 200-300 US dollars. It was added that if a person has outstanding issues with the authorities (other than leaving illegally) he or she may very likely be punished for these upon return. The punishment will be according to law. However, it may also come to a stricter punishment since the person has left Iran illegally.

It was further explained that if a person continues to leave Iran illegally the penalty might rise accordingly. Hence, continuous illegal departures from Iran will result in harsher criminal punishment.

A western embassy (1) informed that an Iranian citizen can return even if he or she has left the country illegally. The embassy explained that the punishment a person might face upon return depends on the acts committed before leaving Iran. A fine may be given for illegal exit. The embassy did not know the size of the fine.

Mahdavi stated that only a small number of Iranians leave the country illegally. The fine for leaving Iran illegally is a few hundred dollars and there is no other punishment. This statement is in contrast to the information given by a western embassy (1) and the Attorney at Law. Both sources knew of high numbers of Iranians who have left Iran illegally.

According to Sajdrabi, a person who has left Iran illegally will be subjected to the laws and regulations that cover these issues. When asked to specify this, Sajdrabi repeated that Iranian laws and regulations will be applied in accordance.

7.5 The use of bribery and forged documents when exiting Iran

7.5.1 Bribery

A western embassy (3) stated that Iranians abroad might be misinforming foreign authorities by saying that they have left Iran illegally through an airport, as this is very difficult due to thorough security checks.

However, it was elaborated that it may be possible to bribe airport personnel, which makes it possible to leave through the airport illegally. This, though, will include bribing of a lot of airport staff members since there are several check points in the airport⁴⁴.

Sajdrabi at first rejected that it is possible for anyone to bribe his or her way through the airport. It was explained how the Immigration Police does not have influence on who can exit Iran, as it is the information in the computer system that will provide information as to who is prohibited from leaving Iran. However, it was later stated that in cases where a person does manage to leave Iran illegally this is not due to flaws within the computer system but rather a human error – i.e. a person has been bribed.

7.5.2 Forged documents

According to the airline liaison officer and document advisor at the embassy (3), some Iranians manage to leave through the airport on forged documents. The embassy has recently come across three false Schengen visas. In such cases bribery might also be involved.

People caught by the airport authorities attempting to leave Iran on forged documents face serious questioning at the airport. The person may be fined. It was added that it is unclear whether the person may also be detained or imprisoned for trying to leave the country on false documents.

Sajdrabi explained that if a person is caught trying to leave Iran on a forged document he or she will not be allowed to board the plane. The person will be held back in the airport and the authorities will try to find information on how the forged document has been obtained. It was added that anyone trying to leave on forged documents might receive a fine. This will be for the court to decide. Sajdrabi was unable to confirm whether a person would be detained or imprisoned for using false documents.

7.6 Issuing of travel documents at Iranian representations abroad

The delegation consulted a number of sources on the matter of issuing of travel documents (passport or laissez passer) at Iranian representations abroad. Some sources stated that in spite of the fact that Iranian representations abroad do issue personal documents to Iranian nationals; it might not be applicable to all Iranian nationals. If a person is of an ethnic or religious minority background, or has engaged in oppositional political activities, the representation might not issue the person a travel document. It was further added by some sources, that the granting of a travel document at an Iranian embassy does not necessarily mean that the person will not face problems with the Iranian authorities upon return to Iran.

An international organisation in Turkey stated that many Iranian citizens can obtain travel documents at Iranian representations. The Iranian authorities want to give the impression to the

⁴⁴ Please refer to chapter 7.8.2 for further information on check points at the airport.

outside world that they have a policy that every Iranian can return to Iran. However, the concern is not about the issuing of a travel document, since any problem with the authorities will not be evident until the person is in Iran. Even though a person can obtain a travel document, this does not indicate that the person will not risk persecution upon return to Iran.

Sajdrabi stated that any Iranian citizen without travel documents can request the issuing of this at an Iranian embassy.

Sajdrabi was not able to confirm whether all Iranian citizens, in spite of ethnicity, gender, religion or political activity could obtain travel documents from an Iranian embassy.

Mirfakhar explained that Iranian citizens, who want to return to Iran, can contact the Iranian embassy in their country of stay for help. Once the assurance of identity and Iranian citizenship has been established, travel documents can be issued. All Iranians can get a passport if they can prove that they are Iranian citizens.

It was further explained that a way to prove to the representation that one is Iranian is by presenting an ID card, a passport or a national card. The personal identification document will then be verified in Tehran or in the city of relevance. It was added, that it is not possible for a person to prove his or her identity without any documents at hand.

However, Mirfakhar later stated that there are some restrictions as to who can obtain a passport. There is a list of illegal acts that can prevent the issuing of a passport. Mirfakhar could not state the illegal acts but added that anyone guilty of an offence mentioned on the list, regardless of age and level, cannot travel.

Sajdrabi said that it is up to the individual embassy whether they will issue a laissez-passer or a passport for an Iranian travelling to Iran.

7.7 Entering Iran

Sajdrabi explained that an Iranian travelling on a laissez-passer is likely to be interviewed upon arrival, and questioned on how he or she lost the previous passport. This procedure varies in length, depending on whether the airport authorities still have to verify the person's identity. It may take two to three hours.

When asked by the delegation if the verification of identity did not take place at the embassy, before issuing the travel document as he had earlier stated, Sajdrabi answered that in some cases verification cannot take place at the embassy. An example was given of a person who may need to get his personal ID card verified through the embassy but who does not have enough time to wait for the verification, since the person has already booked a plane ticket. In this case the embassy may issue a laissez passer, without being able to verify if the identity is correct. When the delegation questioned the plausibility of this procedure, Sajdrabi was unable to answer.

It was further explained that if a person arrives in Iran on a travel document issued by an Iranian representation, and the security check has been completed at the embassy, the airport authorities will not check his identity. The authorities at the airport will, however, ask the person how he has left Iran, since there is no exit stamp in his new travel document. The exit stamp is always checked upon arrival and the traveller gets a stamp in the passport and is registered in the computer system.

A western embassy (3) stated that a person who enters Iran on travel documents issued by an Iranian embassy may be questioned by airport authorities upon arrival. The embassy knows of two cases where the people were interviewed for three to five hours by the Pasdaran police (Iranian Revolutionary Guards Corps) upon arrival.

An international organisation in Turkey explained that a person entering Iran on newly issued documents may be referred to the Presidential Office and the Intelligence Agency. If investigations find any evidence that the person has committed illegal offences before leaving Iran he or she may be prosecuted. If there is no evidence against the person, the person will not have problems with the authorities upon return to Iran.

Sajdrabi stated that if the person has left Iran legally, he or she will not face any problems with the airport authorities when entering Iran.

An international organisation in Tehran (2) explained that the Immigration Police must verify the identity of every person entering Iran. If a person has not left legally, he/she has not been registered in the computer system as having left Iran, and therefore will be questioned upon return. A person, who has left Iran illegally, might also be detained one or two days upon return. It was added, that a person that has left illegally could also be arrested if he had committed an illegal act before leaving Iran.

A person entering Iran on a laissez passer, issued by an Iranian representation abroad, might be fined for illegal exit or subjected to one to two hours interrogation. The source did not know if there might be any further consequences in relation to the interrogation.

7.8 Forced return

A western embassy (2) considered it a serious problem that Iranian citizens without documents cannot be returned to Iran unless they agree to do so voluntarily. This specifically relates to Iranians that have not been granted asylum.

Mirfakar explained that Iranian citizens abroad who are not in possession of a passport cannot be forced to apply for a passport or to sign papers to obtain travel documents, according to Iranian law. Hence, an Iranian citizen without a passport who does not wish to return to Iran cannot be forced to do so.

7.9 Description of the physical procedures of departure and arrival at Imam Khomeini International Airport (IKA)

Due to the construction of the new airport, Imam Khomeini International Airport, and subsequent changes within the use of airports in Tehran in terms of international flights, the delegation met with airport officials and furthermore consulted other sources on the change of airport. Previously, Mehrabad Airport was the main airport for international flights. Now Imam Khomeini International Airport is the main airport for international flights.

The delegation was taken on a tour around Imam Khomeini International Airport by the Immigration Police and shown how departure and arrival procedures and security checks were handled in detail.

7.9.1 International airports in Tehran

Mirfakhar and Sajdrabi explained that Mehrebad Airport, which used to be the only airport in Tehran, is no longer being used for international departures and arrivals. The airport is mainly used for domestic flights; the only exceptions being international VIP flights and flights for pilgrims travelling on pilgrimage.

7.9.2 Security procedures in Imam Khomeini International Airport on departure

Sajdrabi introduced the delegation to the security procedures in Imam Khomeini International Airport and explained the various security checks.

The first security check takes place upon entry from the public area into the terminal area for travellers only. The passenger's luggage will be checked at this point. The luggage goes through a scanner and if anything looks suspicious, the Immigration Police will take the person aside and open the suitcase. The passport of the person travelling is checked and the person passes through a detector (women and men go through separate detectors). This check is the responsibility of the Immigration Police.

After passing through the luggage check the passenger goes to the check-in counter. At the check-in counter, flight personnel will check in the passenger's luggage, check the visa and issue a boarding pass. If anything is wrong in terms of visa or passport, the flight personnel will contact the Immigration Police.

After check-in, the passenger goes to a counter where Immigration Police conducts a third security check. The Immigration Officer sits inside a booth behind a glass window. He checks the passport and personal information on a computer system.

The passport and the exit visa are verified. The data of the passport holder appears on the screen, together with a photograph of the traveller. If the person is married and has children, the photos and names of his wife and children will also appear on the screen. If the passport holder is registered on a list of individuals who have an outstanding issue with the government or for other reasons are not allowed to leave Iran, this information will appear on the screen.

When the security check is completed, and if the person is allowed to leave Iran, an exit stamp will be stamped in the passport. The person travelling now enters the duty free zone.

Before entering the area with flight gates, yet another security check is conducted. This is a physical check where the hand luggage is scanned and the passenger goes through a metal detector. This security check is conducted by the Revolutionary Guards. The Immigration Police and airline personnel conducted the previous checks.

The very last check is done just before boarding, where the traveller shows his or her boarding pass. Airport personnel conduct this check.

On the tour through the checks, Sajdrabi pointed to the fact that a staircase guarded by an airport official separates the airport's arrival and departure areas. However, the delegation noticed upon departure from Iran, that no one was guarding the staircase. Which means that a person who may,

for whatever reason not want to travel or enter the last check done by the Iranian Revolutionary Guards Corps, can enter the arrival area if the staircase is not guarded at the time.

7.9.3 Security procedures in Imam Khomeini International Airport on arrival

After leaving the aircraft the person enters an area with counters for passport checks. There are separate counters for foreigners and Iranians. The Immigration Police who are sitting inside a booth behind a glass window conduct this security check. The Immigration Officer scans the passport and registers all the personal data from the passport of the arriving passenger in the computer system. The personal information is already registered in the computer system. The information includes a photograph of the passport holder and this photograph appears on the screen. The Immigration Officer checks the validity of the passport and if the person is entering Iran on illegal grounds or has outstanding issues with the authorities he will be held responsible in accordance to Iranian law, rules and regulations.

If the passport cannot be scanned by the computer system, the Immigration Officer will enter the passport number manually. The airport representative mentioned that this is in particular a problem with Afghan passports.

According to Sajdrabi, the computer system is a few years old and has been able to identify forged visas, passports and other documents.

8. Description of Iranian ID cards

8.1 Iranian ID cards

According to the Attorney at Law, Iran presently operates with two kinds of ID cards. One ID card is called “Shenasnameh”. It is, at present time, the most used ID card and is issued after registration of birth. During the last years, Iran has issued a new national ID card. This ID card has a unique ID number for every Iranian citizen. The previous ID card did not have any unique number since it was issued in different towns and the numbers often repeated themselves.

Not all Iranians are in possession of this new ID card yet, though it is the aim of the government that this ID card will replace the “Shenasnameh” and become the only accepted ID card in Iran. Iranian citizens who have been issued with the new national ID card often carry both this ID card and the “Shenasnameh” on them.

9. Summonses and reporting at specified times

9.1 Summonses

The Attorney at Law explained that summonses can be issued by the Civil-, Criminal- or Revolutionary Court.

A western embassy (3) confirmed that there are different kinds of summonses and added that summonses are also issued by the Secret Service.

The Attorney at Law stated that if a person does not respond to a summons, the person is breaking the laws regulating the obligation to report to the authorities when summoned. Failing to report when summoned does not mean that the person will be prosecuted. This would depend on the reason for the person being summoned. The Attorney at Law added that a person who has been summoned and has subsequently left Iran during the investigation phase, will not necessarily face prosecution upon return just because the person has failed to report to the authorities after being summoned.

According to a western embassy (3), a person who does not meet when summoned is searched for by the authorities. The embassy does not know what happens to a person who fails to report to the authorities after being summoned.

The Attorney at Law stated that summonses can easily be obtained illegally and that it is also easy to forge summonses by erasing information in the summons and adding new details.

The attorney at Law also informed that a notice to meet in court can be send by text message (sms) and by e-mail. In terms of the use of text messages a document has to be presented as proof of the text being sent to the person.

9.1.1 Civil cases

According to a western embassy (3), any person being accused of an offence according to the Civil Code will be summoned. If the accused does not respond to the summons the person will be summoned again.

The Attorney at Law stated that a civil summons is issued by the Civil Court or branch when a plaintiff has filed a case at the court house. A person who has been served a summons must respond within five days. If the summons is published in the legal gazette the person has 30 days to react to the summons. If a person who has been summoned does not show up, the court may issue a ruling.

9.1.2 Criminal cases

A western embassy (3) explained that a person suspected of having committed a criminal act will be summoned according to the Penal Code.

According to the Attorney at Law, when a person is summoned in a criminal case the person must report to the authorities within three days. However, if the summons has been published in the legal gazette, the person must report to the authorities within ten days. If a person fails to report when summoned according to the Penal Code, the person will be searched for and an arrest warrant may be issued.

A western embassy (3) added that a person who fails to report to the authorities when summoned may be sentenced in absentia to imprisonment if found guilty of the crime. The sentence may be appealed within 10-20 days.

9.1.3 Summonses issued by the Secret Service

A western embassy (3) stated that summonses by the Secret Service do not have a specific format and may even be issued over the phone. A document is rarely issued by the Secret Service. A person who fails to meet for a summons issued by the Secret Service will be searched for. The embassy does not know what happens to the person in such cases.

9.2 Description of a summons

According to the Attorney at Law, a summons is a form consisting of blank sections. The court or the requesting authority will fill in the summons by hand. Though, recently some courts have begun to issue computer generated summonses as well.

A western embassy (3) stated that summonses are always filled out by hand and only the copy is served to the summoned. The summons is stamped by the issuing authority.

The Attorney at Law explained that all summonses have a registration number. By this number any Iranian lawyer can find out if the summons is registered in the system and thereby verify the authenticity of the summons. With the use of the number of the summons, the lawyer can find information on the date of issue, the case number, court type (Civil, Criminal or Revolutionary) and branch number of the court issuing the summons.

The case number is written in the left top corner. In the top middle there is a number of the court and in the top right corner the date is written. A summons is most often written on A5 size paper.

Summonses are always stamped, though not necessarily signed. The stamp contains the following information: city, name, court and division. Divisions all have individual numbers. All cities start with the number “1”. The name of the city will not appear but only the city’s number code.

The Attorney at Law added that if the letter “ج” followed by “/ xxxx“(numbers) appears on the summons, this means that a judgement has been made and the authorities may carry out execution of the judgement. The letter ج will be written in the top right corner of the summons by the Execution Court. Once there is a judgment in the case, it is sent to the Execution Division. In the Execution Division, a new number for judgment is issued. At this stage, the authorities can execute the judgment even though the person can appeal the decision.

The Attorney at Law added that a judgment can be appealed within 30 days. Then the Appeals Court renders a judgment that may be executed. The person may appeal to the Supreme Court; however, this will not prevent execution of the Appeals Court’s decision. However, if a person is acquitted by the Supreme Court the judgment will be reversed.

9.3 Reporting at specified times

The delegation sought information about the use of reporting at specified times, i.e. an order to report regularly to the authorities, for instance daily reporting, weekly reporting, twice weekly reporting etc. While the notion of reporting because of a summons was well known, the majority of the sources were not familiar with the concept of reporting to the authorities at specified times.

The Attorney at Law stated that he has never seen any document ordering a person to report to the police or other authorities at specified times nor had he heard of anyone being ordered to report to the police or to the authorities at specified times. However, he had heard of situations where a person was paid a visit at home by the police. The person will then be questioned as to his or her whereabouts. Such visits may be made by the police or by the Intelligence Service. To the Attorney at Law's knowledge, it is not anyone from the judiciary system who makes these visits.

An international organisation in Tehran (1) stated that former MKO members who have returned to Iran are sometimes told to report to the authorities on a weekly basis during the initial period after their return. It was unknown to the organisation for how long a period and to which authority the returnee should report, and if all returnees had to report.

Mahdavi explained that a person who has served a sentence for a criminal activity may be ordered to report to the police at specified times, as it is the duty of the police to control whether such a person has become criminally active again. If a person, who has been ordered to report to the police at specified times, fails to report, there will not be any sanctions for failing to report. Mahdavi had no knowledge of specific cases where a released person had been ordered to report to the authorities at specified times. However, he added that the police will keep an eye on a person with a criminal past.

10. Gasoline riots in Tehran, June 2007

The delegation sought information on the gasoline riots that took place on 26 June 2007 in Iran, mainly in and around Tehran. The riots took place in the south and east of Tehran which are the poorer areas of the city.

The main reason for the riots was a government decision to ration petrol. This caused riots in the streets of Tehran where gas stations were set on fire and banks and supermarkets were robbed⁴⁵. A western embassy (1) knew of two supermarkets, called "Refah" and "Sharvand", that had been robbed.

Around 200 people had been arrested. However, only one source had more detailed knowledge on what happened to the arrested people.

According to the embassy, most rioters were arrested by a special branch of the anti-riot police, who supposedly are plain clothes officials. Around 200-250 people are suspected to have been arrested.

The arrested people without political ties were only given a small fine (amount unknown) and were then released.

However, people with some kind of anti-government political affiliation, who were seen as "agitators", were most likely given a harsher treatment. They may have been tried for "destruction of public and private property", which carries a sentence of a maximum of three years imprisonment and a pecuniary fine. These people may also have been tried for disruption of the public order.

It was further explained, that some of the arrested people may "on paper" have been tried for these riots, whereas in reality this incident may cause an opportunity for the government to hold a charge against the person, instead of having to concoct a difficult charge concerning political affiliation.

A contact within a western embassy (1) had been in contact with a relative of one of the arrested people. The relative informed that the family of the arrested person was not informed of the arrest. The accused family member just "disappeared" on the night of the riots and the family had tried to get information from the police, who then told them that the family member had been arrested. However, the police did not supply any information as to the arrested person's whereabouts. The embassy was not aware of the outcome of this case either.

⁴⁵ "Iran fuel rations spark violence", 27 June 2007. http://news.bbc.co.uk/2/hi/middle_east/6243644.stm. [Accessed 5 November 2008].

11. Draft evasion / Desertion

Mahdavi informed that military service is compulsory in Iran.

The Attorney at Law informed that generally the duration of military service is two years and it is only compulsory for men. However, it can be shortened to 20 months.

A person who deserts from the army will have to continue the military service upon return, if he is under the age of 40. Individuals who are over the age of 40 will not be asked to do military service. If a person has deserted or evaded the military service and returns to Iran after the age of 40, he will receive a financial punishment and possibly imprisonment. This is subject to arbitrary ruling. However, if the person has been subject to a pardon he will not face punishment on return to Iran.

According to the Attorney at Law, a person who evades military service may be punished. According to Military Law, if a person had to serve 20 months of military service and evades, the length of the service will increase to 24 or 26 months. The Attorney at Law added that according to “previous legislation” a person may also be fined a few thousand US Dollars instead of serving extended military service. However, the Attorney at Law stated that it is still to be seen how recent changes in law are used in practice, i.e. whether a person will be fined or must serve extra time.

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Annex I - Declaration by the Presidency on behalf of the EU concerning the consideration of a draft Penal code in Iran

25 February 2008

The European Union is deeply concerned by the on-going deterioration in the situation of human rights in the Islamic Republic of Iran.

The EU expresses its acute concern about the news that the Iranian Parliament is reviewing a draft Penal code. The EU is concerned, in particular, about Section Five on Apostasy, Heresy and Witchcraft.

It is important to note that, if the law is adopted, it will be for the first time that the Islamic Republic of Iran had in its criminal code, as a legal stipulation, the death penalty for apostasy. In the past, the death penalty has been handed down and carried out in apostasy cases, but it has never before been set down in law. Furthermore, grave concern is also expressed over the articles concerning heresy and witchcraft, which determine death penalty as the punishment for acts that are contrary to the obligations and necessities of Islam.

These articles clearly violate the Islamic Republic of Iran's commitments under the international human rights conventions, to which Iran is party.

The EU calls upon the Iranian authorities, both in Government and Parliament, to modify the draft Penal code in order to respect the obligations under the international human rights conventions to which the Islamic Republic of Iran is a party. In its current state, the draft Penal code is not consistent with the Islamic Republic of Iran's obligations and therefore should not enter into force as currently drafted.

The Candidate Countries Turkey, Croatia* and the former Yugoslav Republic of Macedonia*, the Countries of the Stabilisation and Association Process and potential candidates Albania, Bosnia and Herzegovina, Serbia, and the EFTA countries Liechtenstein and Norway, members of the European Economic Area, as well as Ukraine and the Republic of Moldova align themselves with this declaration.

* Croatia and the former Yugoslav Republic of Macedonia continue to be part of the Stabilisation and Association Process.