

## ICELAND

### CCPR A/38/40 (1983)

99. The Committee considered the initial report of Iceland (CCPR/C/10/Add.4) at its 391<sup>st</sup>, 392<sup>nd</sup> and 395<sup>th</sup> meetings held on 18 and 20 October 1982 (CCPR/C/SR.391, 392 and 395).

100. The report was briefly introduced by the representative of the State party who stated that the analysis to be made of the report by the Committee would not only make it possible to improve the next report but would also review any shortcomings and even lead to amending Icelandic legislation along lines more in keeping with the provisions of the Covenant.

101. Members of the Committee, who praised the long-standing democratic traditions of Iceland, noted that the report was too concise inasmuch as it did not reflect the human rights situation in the country and was lacking in references to the relevant statutes, court decisions and administrative practices. They welcomed the fact that Iceland was also party to the Optional Protocol and one of the few States parties which had made the declaration under article 41 of the Covenant. They wondered, however, whether the Covenant had been officially published and available to the public in Icelandic and whether officials of the administrative bodies concerned were aware of their obligations thereunder, whether the public was aware of the fact that this report was currently being considered by the Committee; whether copies of the report were available to the public in the Icelandic language, and whether the representative intended to make a statement on the subject on his return home. Information was requested on the human rights not provided for under the Covenant but safeguarded in Icelandic legislation, to which reference was made in the report; on whether the Icelandic Government was considering the possibility of withdrawing its reservations to articles 8 and 13; and on any public or private organization that existed in Iceland for the promotion and protection of human rights.

102. In relation to article 1 of the Covenant, reference was made to a statement in the report to the effect that Icelandic practice had always been in conformity with the principle set out in this article; more information was requested on Icelandic practice in this respect, particularly for the benefit of people struggling for their independence and self-determination such as the Namibian and Palestinian peoples.

103. In connection with article 2 of the Covenant, reference was made to the mere enumeration in the report of the rights guaranteed to individuals by law and to a statement that individuals could apply to the courts for remedy if they felt that their rights had been violated, and it was pointed out that this presupposed that everyone had the same opportunity of exercising his rights and the ability to do so. It was maintained that such presuppositions could not be taken for granted and that it was, therefore, useful to know what the State was doing to ensure that the rights recognized by both the Constitution and the Covenant were protected and enjoyed by all the inhabitants of Iceland, without discrimination, particularly in respect of political and other opinions. Noting that the Covenant had not been incorporated into Icelandic legislation and that the latter did not cover some of the provisions of the Covenant, as indicated in the report, members of the Committee asked whether

there were any plans for constitutional reform, particularly with regard to human rights; whether the Covenant could be invoked in Icelandic Courts and what guarantees there were that Parliament would not enact laws that ran counter to the provisions of the Covenant; whether there was a constitutional court; whether the judges had authority to review ordinary laws for the purpose of ascertaining their conformity with the Constitution and whether the courts had occasion to interpret Icelandic law in the light of the Covenant. Members sought information regarding whom individuals could appeal to if their rights were violated by the administration; whether the institution of Ombudsman existed in Iceland and, if so, how it operated, and whether there had been any examples of persons bringing an action to the courts for remedy and the kind of compensation paid.

104. As regard article 3 of the Covenant, members requested more information on the practical measures taken in Iceland to ensure that equality between the sexes existed in fact; on the proportion of women in public life; on details of the “minor exceptions” to equality of rights that existed, according to the report on the operation of the Equal Rights Council and its powers of enforcement.

105. In connection with article 4 of the Covenant, reference was made to a statement in the report that the defense of necessity could justify departures even from constitutional provisions and it was asked whether it could be concluded that, in time of emergency, Iceland could make derogations from certain rights which under no circumstance could be derogated from according to the provisions of article 4 of the Covenant; whether the “defence of necessity” was the same as an “event of extreme urgency” mentioned in the Constitution and whether the powers for dealing with such events had ever been invoked in peacetime

106. Commenting on article 6 of the Covenant, information was requested on the meaning of the statement in the report that the taking of a person’s life could be justified by necessity, whether that might include euthanasia and abortion, and on the “very strict conditions” to which the taking of a person’s life was subject.

107. In relation to articles 7 and 10 of the Covenant, information was requested on the legal provisions prohibiting and penalizing torture or cruel, inhuman or degrading treatment or punishment and on the provision making subject to criminal responsibility anyone who put another person “into a situation of danger where he is helpless” or who refrained from saving “a person in need when it is possible to do so without endangering oneself or others;” whether the “work centre” referred to in the report was a kind of penal institution and on the measures of supervision that had been adopted to investigate complaints to ensure compliance with the laws and regulations concerning the treatment of persons who had been deprived of their liberty.

108. Regarding article 9 of the Covenant, clarification was requested of the provision of the Constitution that “no person may be taken into custody for an offence merely punishable by fine or jail” and it was asked whether there were cases of deprivation of liberty other than those for criminal offences, such as mental illness and, if so, how the guarantees referred to in this article were applied; how article 9, paragraph 2, was applied in Iceland; whether it was customary to grant bail to a person awaiting trial in Iceland and, if so, what factors were considered; what the legal situation was in respect of article 9, paragraph 4, in the absence of any reference to habeas corpus in the Constitution; and whether compensation withing the meaning of article 9, paragraph 5, of the Covenant existed in Iceland.

109. In respect of article 13 of the Covenant, it was asked what difference there was between the “interest of the State” and that of the public and what “other reasons” would make the presence of an alien undesirable. Noting that a minister was the authority issuing the expulsion order of an alien, one member asked whether such an alien could appeal against his expulsion and thus have his case heard and, if so, who was competent to overrule a ministerial order in this respect. In this connection, it was asked what rules governed the residence of aliens in Iceland, whether an alien could apply to the courts for an extension of his residence permit for reasons relating to the rights of the family and whether aliens who were nationals of the Nordic countries enjoyed a privileged status.

110. With regard to article 14 of the Covenant, considering that serious social, cultural, financial and linguistic barriers could make access to courts extremely unequal, it was asked what Iceland had done to ensure that equality before the courts really meant equal access to those courts and to the legal profession in general. Noting the possible existence of an overlapping of judicial and administrative functions in the case of some judges and that judges who held administrative office could be discharged from them, members asked who elected judges, whether the same person could act as a local judge and as a local representative of the executive or as a prosecutor and, if so, how that could affect the conduct of trials or pre-trial investigations and how the independence of judges could be ensured in these circumstances. More information was requested on the implementation of the guarantees provided for in this article.

111. In connection with article 15 of the Covenant, it was asked whether the Criminal Code of Iceland prohibited retroactive punishment so that a person could not be punished unless he had been found guilty of an act punishable by law at the time it was committed. Reference was made to a statement in the report that if the criminal law were to be changed since an act was committed, that act would be judged under the new law but that no heavier punishment could be imposed than under the old law. In the light of this, it was asked whether that provision covered only persons who had not been convicted when the lighter punishment was enacted or whether the lighter penalty had any effect on the penalty already imposed on those convicted under the old law.

112. With reference to article 17 of the Covenant it was noted that, according to the report, the Althing was now considering a Government proposal on the storage of information in computers and it was asked what kind of information was going to be stored and whether such an operation was not contrary to the principle of the inviolability of the person.

113. As regards article 18 of the Covenant, an explanation was requested of the philosophy behind the Constitutional rule that a person who was not a member of the State Church of Iceland nor of any other recognized religious group should pay to the University of Iceland, or to a designated scholarship fund of that University, dues otherwise payable to the Church, and it was asked why a person of another recognized religion should be expected to contribute to the State Church. Noting that there was no provision in Icelandic law for conscientious objection, one member asked why it was necessary to require everyone to bear arms; and whether the Constitution gave protection to such groups as agnostics, atheists and humanists. Information was sought on the legal provision relating to the liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions.

114. Commenting on article 19 of the Covenant, members noted that the relevant article of the Constitution was more restrictive, and they requested information on the affirmative action that had been taken to ensure enjoyment of the rights embodied in this article and on any limitations that existed to the freedom of all forms of expression and as to what restrictive laws, such as those on sedition and defamation, there were.

115. With reference to article 20, in conjunction with article 19 of the Covenant, it was asked how it was possible to justify an article of the Constitution which was more restrictive of freedom of expression than article 19 of the Covenant, while invoking freedom of expression in support of the reservation made by Iceland concerning the prohibition of propaganda for war. Some members considered the argument for tolerance with regard to that sort of propaganda to be invalid from the legal standpoint and incompatible with the Covenant and modern international law. Noting that, according to the report, advertisements for alcoholic beverages and tobacco had been banned for reasons of public interest, one member stated that it was regrettable that there was no similar ban on war propaganda or on advertisements for the recruitment of mercenaries. Requests were made for an explanation of why Iceland had entered a reservation in respect of this article.

116. In connection with articles 21 and 22 of the Covenant, it was asked what remedies were available to organizers of an open-air meeting, which was banned as unlawful, if they thought that the authorities had misjudged the facts; what were regarded as unlawful purposes that could restrict the formation of societies; who had the authority to judge the lawfulness of the purpose and to decide on suspension or to bring action for dissolution of a society and on what legal grounds; and how the provisions in question were reconciled with the special protection afforded to trade unions by article 22 of the Covenant.

117. In respect of articles 23 and 24 of the Covenant, more information was requested on family life in Iceland, particularly on whether there was a recognized head of the family, whether there was a family magistrate, whether women had the right to abortion and on the legal effects of forms of cohabitation other than marriage, particularly with regard to the legal status of children born out of wedlock and their right of inheritance.

118. As regards article 25 of the Covenant, many members expressed concern about the conditions placed in the Constitution on the exercise of the right to vote and they wondered whether it was easy to find persons of totally “unblemished character” so as to be eligible to vote and who was eligible and had the authority to judge on this extremely subjective matter; whether this provision had resulted in the disenfranchising of many Icelandic citizens; whether another condition really required eligible voters to be “financially responsible”; and, if so whether these conditions could be characterized as reasonable restrictions within the meaning of article 25 of the Covenant. Did individual voters have the same influence, in mathematical terms, according to their place of residence? Was there a trend to ensure a minimum representation of large rural areas in Parliament? Did the Government believe that the present system had affected the implementation of the principles embodied in article 25 of the Covenant? Was the question of constitutional reform under consideration.

119. Replying to questions raised by members of the Committee, the representative of the State party informed the Committee that the Covenant had been published in the Law Bulletin of Iceland

in the Icelandic language, with a parallel text in English, which made the Covenant accessible to the members of the legal profession and the various other readers of the Bulletin; that it was very unlikely, however, that the public at large would be greatly interested in international instruments, even if they were given wide publicity in the press, which was also very unlikely so long as there were no specific conflicts in that field; that Iceland's report to the Committee was most unlikely to be published, for the interest of the public in such theoretical discussions as it contained was virtually nil. He also informed the Committee that the question of withdrawal of reservations made by Iceland was under study and he hoped that all of them would be withdrawn in due course.

120. In connection with questions raised under article 2 of the Covenant, he stated that the Constitutional provisions concerning fundamental human rights had remained unchanged since 1874, but that a Constitutional Committee had been at work for some six years on a revision of the 1944 Constitution which should be completed by the end of 1982; that although the provisions of the Covenant had not been incorporated into domestic legislation, they were respected in practice; that the successive Heads of the State of Iceland had never contested the democratic decisions of the Althing; and that there was no Ombudsman in Iceland. He also stated that the Covenant could be a useful source of reference in courts, but that it was national law which prevailed; that there was in Iceland no constitutional court nor an administrative court and that judicial organization in the country consisted only of lower courts and a supreme court.

121. As to article 3 of the Covenant, the representative stated that, generally speaking, the functions of the Equal Rights Council were comparable with those of a parliamentary Ombudsman, operating in that specific field; that a "women's strike," which had taken place some time ago, had been primarily a protest against the status of women in society rather than one against their legal status and that a change of tradition in the daily lives of men and women required much time and effort.

122. In relation to questions raised under article 4, he stated that it was inevitable that a State which was in an emergency situation would derogate from some of its obligations under the Covenant, but that it was very unlikely that such a situation would arise in a State which had never had an army, such as Iceland.

123. In connection with article 6, he stated that the taking of a person's life was justified only in the case of self-defence, that euthanasia was prohibited and that abortion was not regarded in Icelandic legislation as the taking of a person's life.

124. Replying to a question raised under article 9, the representative pointed out that the revision of a law concerning the procedures under which mentally ill persons were interned was under way.

125. As regards article 13, he recognized that the law on aliens contained provisions that ought perhaps to be amended in order to reflect more accurately the human rights situation in the country. However, an alien who had been settled in Iceland for a long period, particularly if he was head of a family, ran no risk of being expelled unless he committed a crime in another country, in which case extradition action could be taken against him.

126. With respect to article 14, he informed the Committee that Iceland was endeavouring gradually to abandon the present judicial system, but that the reorganization of that system was rather costly

and not without problems.

127. With reference to a question raised under article 17, he agreed that there was a danger in the Government's proposal concerning the storage of information in computers, which he informed the Committee had already become law, that all that could be done was to try to ensure that the apparently inevitable increase in their use would be in keeping with certain moral principles and that that task was being undertaken by the Council which had been set up for that purpose.

128. As to article 18, the representative referred to the law on believers' associations which recognized, inter alia, the freedom of parents to ensure the religious education of their children under the age of 16 years in conformity with their own convictions, while providing that children over 12 years of age should be consulted.

129. With regard to article 19, he stated that he had no knowledge of any exceptions to the relevant provisions of the Constitution that censorship and other restrictions on the freedom of the press must never be enacted.

130. In connection with article 20, he maintained that to prohibit propaganda for war would be regarded in Iceland as an infringement of the freedom of expression; that his country had no army and did not intend to have one and that, in becoming associated with the North Atlantic Treaty Organization (NATO), it had made it quite clear that it would in no even take part in a war.

131. Commenting on the freedom of association under article 22, he stated that the relevant constitutional provision was 100 years old but that that freedom was fully respected; that trade union legislation in no way hindered the establishment of associations and that no association had ever been suspended under that provision.

132. As to article 23 and 24, the representative informed the Committee that the Icelandic Family Law Committee was working on a proposal for a law on the legal problems arising from cohabitation outside the institution of marriage; that a children's law, which entered into force on 1 January 1982, and a law amending the law on Icelandic nationality, which had been enacted in May 1982, contained provisions in favour of children.

133. Replying to questions under article 25, the representative pointed out that the reference to "unblemished character" as a condition of the right to vote was contained in a provision dating from the past century, which the Constitutional Committee at present working in camera would undoubtedly abolish. He confirmed that the electoral system in Iceland was a burning issue in connection with the revision of the Constitution and stated that in 50 years the Constitution had been revised three times with the sole intent of changing the electoral system, and each time it had brought about the downfall of the Government.

134. The representative apologized for not replying to all the questions raised, but assured the Committee that Iceland's next report would answer them in full.

## CCPR A/49/40 (1994)

69. The Committee considered the second periodic report of Iceland (CCPR/C/46/Add.5) at its 1266<sup>th</sup> to 1268<sup>th</sup> meetings, held on 19 and 20 October 1993, and adopted 21/ the following comments:

### Introduction

70. The Committee expresses its appreciation to the State party for its elaborate and thorough report, which has been prepared in accordance with the Committee's guidelines, and for engaging through a highly qualified delegation in an extremely constructive dialogue with the Committee. It notes with satisfaction that the information provided in the report, and that orally submitted by the delegation in reply to both written and oral questions, enabled the Committee to obtain a comprehensive view of Iceland's actual compliance with the obligations undertaken under the International Covenant on Civil and Political Rights. The Committee, however, regrets that the second periodic report, which was due in 1987, was submitted with considerable delay.

### Factors and difficulties affecting the application of the Covenant

71. The Committee finds that there are no important difficulties that may affect the effective implementation of the Covenant's provisions by the Government of Iceland.

### Positive aspects

72. The Committee welcomes the efforts undertaken by the Government of Iceland since the submission of the initial report in 1981 in order to effectively guarantee the protection of rights set forth in the Covenant. Of particular importance in this respect were the adoption and the entry into force on 1 July 1992 of a new law resulting in the total separation of judicial and executive power, as well as comprehensive legislation concerning extensive changes in the judicial system and rules governing judicial procedure; the establishment in 1988, in accordance with Law No. 13/1987, of the Office of Ombudsman of the Althing (Parliament); and the revisions of the Equal Status Law of 1976.

73. In this connection, the Committee notes with satisfaction that Law No. 28/1991 on Equal Status and Equal Rights of Women and Men has contributed towards equal rights of men and women in general, although there is still room for improvement in practice with regard to the remuneration for work. The Committee also notes with interest the establishment of the Equal Rights Council with the aim of ensuring the proper implementation of the Equal Rights Law and of recommending proposals to the authorities regarding gender equality. The announced establishment of Equal Rights Committees at the municipal level throughout the country to provide counsel to municipal governments would further serve the promotion of the equality of rights of men and women.

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21/ At its 1281<sup>st</sup> meeting (forty-ninth session), held on 29 October 1993.

### Principal subjects of concern

74. The Committee notes with concern that the Constitution of Iceland is lacking in clear and comprehensive provisions dealing with the protection of all fundamental human rights as recognized in the numerous international human rights treaties, in particular in the International Covenant on Civil and Political Rights, to which Iceland is a party. The absence is not met by reliance on unspecified unwritten fundamental rules. This does not adequately meet the requirements of article 2, paragraph 2, of the Covenant, which enjoins States parties to take such legislative or other measures which may be necessary to give effect to the rights recognized in the Covenant. No matter how effective the Icelandic constitutional tradition of relying on unwritten fundamental rules and principles may be, codification of the rules governing the protection of human rights is an important element of protection.

75. In this connection, the Committee expresses its concern over the status of the Covenant within the national legal order and the lack of clarity concerning the resolution of eventual conflicts between the Covenant and the Constitution and other domestic legislation.

76. The Committee also expresses its concern over the apparent preference accorded, in the domestic law as well as in legal doctrine and jurisprudence, to the European Convention for the Protection of Human Rights and Fundamental Freedoms as against the International Covenant on Civil and Political Rights. In that regard, the attention of the State party is drawn to the fact that the latter guarantees a number of human rights not protected under the former and that permissible restrictions are less broad-based.

77. The Committee hopes that the pending legislation relevant to article 13 will be formulated in such a way as to allow the reservation thereunder to be withdrawn.

78. The Committee notes that some other requirements of the Covenant are not fully met, in particular those referred to in articles 4, 9, paragraphs 3 and 4, 19 and 24, paragraph 2. The Committee also notes that confessions made under duress are not clearly excluded as evidence, that inhuman and degrading punishment is still possible, and that there is still discrimination against children born out of wedlock and in favour of public officials. The possibility of a sentence of up to one year's imprisonment for libel presents problems in relation to article 19; and the limitation imposed upon naturalized citizens in the retention of their names of origin raises issues under article 26. The attention of the State party has also been drawn to the various General Comments adopted by the Committee.

#### Suggestions and recommendations

79. The Committee recommends that the State party take appropriate measures to incorporate provisions of the Covenant into domestic law and ensure that the Covenant be treated on an equal footing with regional human rights instruments, both in legal and practical terms.

80. In that context, the Committee recommends that the Government of Iceland consider amending the national Constitution in order to reflect adequately the provisions of the International Covenant on Civil and Political Rights and other international human rights treaties ratified by Iceland. In the meantime, the Committee strongly recommends that the Covenant be included, by way of appropriate amendments, in the draft law envisaging the incorporation of the European Convention



for the Protection of Human Rights and Fundamental Freedoms into domestic law, at present before the Althing (Parliament), or in a similar legislative act.

81. The Committee also recommends that the Government review the continuing need for any reservation, with a view to withdrawing them.

82. The Committee emphasizes that further measures should be taken to ensure that the provisions of the Covenant are more widely disseminated, particularly among the legal profession and members of the judiciary.

83. The Committee strongly recommends that the reporting obligations of the State party under article 40 of the Covenant be strictly observed and that the third periodic report be submitted within the time-limit to be determined by the Committee.

## **CCPR A/54/40 (1999)**

54. The Committee considered the third periodic report of Iceland (CCPR/C/94/Add.2) at its 1704<sup>th</sup> and 1705<sup>th</sup> meetings, held on 21 October 1998 (CCPR/C/SR.1704-1705), and adopted the following concluding observations at its 1717<sup>th</sup> meeting, held on 29 October 1998.

### Introduction

55. The Committee welcomes the timely and comprehensive report submitted by the Government of Iceland. The Committee also expresses its appreciation for the provision, by the Icelandic delegation of further information about developments in the implementation of human rights in Iceland subsequent to the submission of the report. The written information submitted by the delegation in reply to the Committee's list of issues was particularly useful. The Committee also expresses its appreciation for the constructive and open dialogue it had with the Icelandic delegation.

### Positive factors

56. The Committee commends the State party for its excellent record in the implementation of the provisions of the Covenant. It notes with appreciation that the second periodic report of Iceland as well as the Committee's concluding observations thereon were widely disseminated and were the subject of public debate, which contributed to recent constitutional and legislative changes in the field of human rights.

57. The Committee welcomes the fact that Iceland has withdrawn its reservation to articles 8, paragraph 3 (a), and 13 of the Covenant.

58. The Committee expresses satisfaction at the adoption of Constitutional Act No. 97/1995 amending the human rights provisions of the Constitution, which now reflects to a greater extent the provisions of various international human rights instruments, including the International Covenant on Civil and Political Rights. The Committee also expresses its satisfaction that the constitutional amendments give strength to the principle of the indivisibility of civil, political, economic, social and cultural rights.

59. The Committee takes note of the intense legislative activity in matters covered by the Covenant that has taken place in Iceland since the examination of the second periodic report. It expresses its appreciation that the newly adopted laws contribute to better protection of fundamental rights in the State party. Of particular interest in this respect are the adoption of Act No. 62/1994 incorporating the Convention on Human Rights, the Act on the Judiciary (No. 15/1998), and the amendments to the Foreign Nationals Supervision Act (No. 45/1965), the Personal Names Act (No. 45/1996) and the Act on Administrative Procedures (73/1993).

60. The Committee welcomes the establishment of the Office of the Ombudsman for Children (Act No. 83/1994) and of the Human Rights Centre in 1994.

### Principal subjects of concern and recommendations

61. While noting that the European Convention for the Protection of Human Rights and Fundamental Freedoms has been incorporated into Icelandic law, the Committee emphasizes that a number of articles of the Covenant, including articles 3, 4, 12, 22, 24, 25, 26 and 27, go beyond the provisions of the European Convention.

The Committee therefore encourages the State party to ensure that all rights protected under the Covenant are given effect in Icelandic law. The Committee recommends that the remaining reservations to the Covenant be reconsidered with a view to their eventual withdrawal.

62. The Committee notes with concern the persistence of certain areas of inequality between men and women in Iceland, despite the efforts of the Government.

The Committee recommends that the State party intensify its efforts to achieve full equality between men and women, including in the employment sector. It hopes that the "job evaluation" exercise undertaken under the Ministry of Social Affairs will contribute to eliminating discrimination in the workplace and to implementing fully the principle of equal wages for work of equal value.

63. The Committee asks that the next periodic report provide further information on measures taken to combat all forms of violence against women.

64. The Committee reiterates its concern over the persistence of discrimination in law and practice against children born out of wedlock, which is incompatible with articles 24 and 26 of the Covenant. It recommends that attention be paid to the prompt rectification of this situation with regard to all rights to which children are entitled.

65. The Committee requests the State party to ensure the publication and wide dissemination in Iceland of the State party's report as well as of the Committee's concluding observations.

66. The Committee fixes the date for the submission of Iceland's fourth periodic report at October 2003.