

Iceland

Supplementary Report on the Implementation of CESC (Prior to the List of Issues)

The Icelandic Human Rights Centre



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Notes on Iceland's fourth periodic report on the implementation of the International Covenant on Economic, Social and Cultural rights pursuant to Article 16 and 17 of the Covenant

Contents

Introduction..... 3

 Constitutional protection of Economic, Social and Cultural rights. 3

 Application of the Covenant in the Icelandic legal system. 4

Article 2 - Exercise of rights without discrimination. 4

Article 3 - Gender equality 5

Article 6 and 7 - Right to work and to just and favourable conditions of work 8

Article 9 and 11 - Right to social security and to an adequate standard of living..... 11

Article 10 - Protection of the family 14

Article 12 - Right to health 17

Article 13 and 14 - Right to education..... 19

Article 15 - Right to participation in cultural life. 20

Introduction

1. In light of the Committee on Economic, Social and Cultural Rights (the Committee) review of Iceland's fourth Periodic Report on the Implementation of the International Covenant on Economic, Social and Cultural Rights (CESCR), the Icelandic Human Rights Centre (ICEHR) has taken the opportunity to provide the following insights regarding Iceland's implementation of the Covenant.
2. The Government report provides an extensive overview of national legislative measures that are significant to the implementation of the Covenant. The report however was written in 2008 and has been updated only to a limited extent and as such, there are several issues identified that call for improvement.
3. ICEHR has assumed the functions of a National Human Rights Institution (NHRI) as set out in the UN Paris Principles, although its powers, independence and financing are not established by statute. Even though no contribution is earmarked for the Centre in the National Budget, the Centre has since 2008 been allotted 10 million ISK annually from the Ministry of the Interior (former Ministry of Justice and Human Rights) and additional 3,5 million ISK through a service agreement with the Ministry of Foreign Affairs. ICEHR appreciates the Government's support but these contributions do not satisfactorily sustain the Centre's operations and functions. As a result, ICEHR has had to seek monetary support from other sources as well, mostly for specific projects that take up valuable time that should be directed at the Centre's primary functions as stipulated in the Paris Principles. Furthermore, the Centre's exclusion from the National Budget means that ICEHR is unable to rely on governmental financial support, making it almost impossible to plan ahead. Recently, the Government have stated their intention to actively consider the possibility of establishing a NHRI, in view of existing institutional structure, availability of expert knowledge and experience and other relevant factors. ICEHR has already offered our experience, knowledge, contacts etc. to be of use and to facilitate this work.

Constitutional protection of economic, social and cultural rights.

4. In the Icelandic Constitution, Act no. 33/1944 only a few articles aim to protect economic, social and cultural rights. On November 4th 2009 the Icelandic Prime Minister submitted a bill to the Parliament establishing an advisory Constitutional Assembly with the given mandate to review the Constitution. Annexed to the bill was an explanatory statement stipulating the reasons for a Constitutional review, which were mainly the need for extensive social discourse in order to review the basis of the Icelandic administration after the economic meltdown in late 2008. Demands had been made on the need to review various ground rules of the Icelandic administrative infrastructure such as the organisation of the legislative and executive powers and the separation between the two.
5. Finally after a long journey of establishing the Council it was officially formed on 6 April 2011. The delegates of the Constitutional Council are a various group of people with diverse opinions, education and experience in life. Each and everyone have taken a stance to matters based on their own beliefs and opinions. During the process, the Council has consulted the Report by the Constitutional Committee, as well as the result of the National Forum 2010. The public did have wide access to the work of the Council, primarily by writing comments, totalling 3600, as well as sending their suggestions, numbering approximately 370, to the Council's website. The idea that the public had their saying in the revision of the constitution was thus preserved. In that way, the proposed bill for a new Constitution has little by little taken shape during discussions between the delegates themselves and with open exchange of opinion with the community.
6. The bill for a new Constitution was presented to the Speaker of Althingi on 29 July 2011. All Council delegates, at the last meeting of the Constitutional Council 27th July 2011, unanimously

approved the bill. The Chapter on Human Rights has been revised and is now called Human Rights and Nature. The Principle of Equality is more detailed than in the present Constitution and special emphasis is put on all being granted the right to live with dignity. A provision is made that by law, all children shall be granted the protection and care required for their well being. With the emphasis on increased transparency and information duty of Government bodies, the bill strives to better ensure civil rights for people in strive with the authorities. Media freedom is stipulated in the constitution as well as increased freedom of information, it is especially provided that everyone is free to collect and distribute information and that public administration shall be transparent.¹

Application of the Covenant in the Icelandic legal system.

7. CESCR was ratified by Iceland in 1979. However, its' provisions have not fully been incorporated into Icelandic law. ICEHR believes that although provisions of the Covenant have been considered both by the courts and when reviewing legislation; it is necessary to incorporate the Covenant into Icelandic legislation so that the individual rights and freedoms the Covenant entails are guaranteed equally for all inhabitants of Icelandic society.

8. Iceland has not signed and ratified the Optional Protocol to CESCR. The OP provides individuals or groups of individuals with the possibility of submitting communications to the Committee on Economic, Social and Cultural Rights, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the economic, social and cultural rights set forth in the Covenant by that State Party. ICEHR urges the Icelandic Government to incorporate the Covenant fully into Icelandic law and to sign and ratify the OP in the near future.

Article 2 - Exercise of rights without discrimination.

9. There are only minimal provisions in Icelandic legislation for combating discrimination. Article 65 of the Icelandic Constitution puts forward the principle of equality, including protection against ethnic or racial discrimination. The principle of equality is implemented through a handful of national acts of law but is mostly focused on gender discrimination. Work is underway in the ministry of Welfare to amend this and extend the discrimination grounds and the scope of the legislation.

10. The objective of the Act on Disabled Persons, no. 59/1992, is to ensure, for disabled people, equal rights and standard of living comparable to other members of society, and to create conditions for them to live a normal life. In the Act there is no specific definition of disability, according to the Act a disabled person is someone who needs special services or support because of mental or physical disability, such as mobility, intellectual disability, mental illness, hearing or visual impairment. Disability can also be a consequence of chronic illnesses and accidents.

11. The School of Social Science at the University of Iceland together with the Institute for Political Science and Politics and the Centre for Disability Studies did a survey of the situation of disabled people in terms of the service and counselling rendered to them by the regional offices for disabled people and the municipalities. The survey was conducted at the request of the Ministry of Welfare and the objective was to provide basic information about the situation of disabled people across the country, before the transfer of these services from the State to the municipalities occurred in January 2011. By mapping these services it will be possible to evaluate the professional gain of the transfer in three years time, or in 2014.² According to the survey most disabled people have only about 100-150 thousand ISK in disposable income per month (about 930 Euros) many people have difficulties supporting themselves on this income, especially home owners and those living in rental

¹ Information collected from the Constitution Councils webpage; www.stjornlagarad.is

² Félagsvísindastofnun Háskóla Íslands. Flutningur þjónustu við fatlað fólk frá ríki til sveitarfélaga. http://www.velferdarraduneyti.is/media/ritogskyrslur2011/27102011_Malefni_fatlads_folks_skyrsla.pdf

housing and about one third of the respondents said that there had been times they could not afford food. The status and/or well being of people with mental health problems appear in many ways to be worse than that of people with other disabilities. Therefore people with mental disabilities are more likely to experience financial problems and 31% of them could not afford food in 2010 compared to 12% of other participants in the survey.³ The Centre for Disability Studies conducted a research in connection to the European Year on Poverty and Social Exclusion, on poverty among disabled people and their social circumstances, on behalf of the Ministry of Welfare, the Organisation of Disabled in Iceland and the University of Iceland. A draft report on the research shows the overall result that, according to most, if not all recognised standards, a large group of disabled people is either living in poverty or on the brink of poverty. The draft report states that disability pension is so low that many disabled people are in severe financial difficulties and are having trouble with daily sustenance. Some are unable to make ends meet, that at the end of the month they do not have any money for food or other necessities. The draft report also claims the disability pension system to be really complex, e.g. through various income related reductions. Therefore it is made really difficult, if not impossible, for disabled people to better their financial circumstances. Many participants also complained of a lack of transparency, communication and consultation and many also felt demeaned by the inadequacy of resources and services open to them as well as feeling rejected by society.⁴

12. The plight of immigrant women subject to violence is commonly more serious than that of Icelandic women in the sense that they more often lack support systems and do not know their rights; they are misinformed and lied to by the abusers. Their isolation leads to them being unaware of their rights and status under Icelandic law, leaving them vulnerable to abuse on the part of their spouses and employers. Therefore these women are subject to multiple forms of discrimination based on their gender and origin. If they have not obtained a permanent residence permit in Iceland some of them fear being sent back to their home country. In 2010 over 36 % of all women seeking counselling and assistance from the Women's Shelter in Reykjavík and 64 % of all women staying at the shelter were immigrant women. However, there's now a stipulation in the Act on Foreigners (Article 13 Para 6), saying that should a marriage/cohabitation end due to violence, the family reunification permit may still be extended if the person violated against has not already obtained a permanent residence permit. The proposal on Actions submitted by the Minister of Welfare in connection to his Report on Violence against Women in Intimate Relationships, prescribes research to be done on the status of immigrant women in Iceland and it is important to carry it out as soon as possible.

Article 3 - Gender equality

13. Iceland has a special legislation on gender equality (The Act on the equal status and rights of women and men no. 10/2008, Gender Equality Act) and Iceland claimed the top spot of the World Economic Forum's Global Gender Gap Index 2009. Also the Icelandic Parliament has passed a law on gender quotas on corporate boards, companies with more than 50 employees must have at least 40% of both genders represented on their boards by September 2013. In spite of all this, absolute equality has not been achieved and the gender pay gap is still considerable. A survey conducted in 2008 on behalf of the Ministry of Social Affairs and Social Security showed an overall gender pay gap of 16.3%. A more recent survey conducted by VR, a trade union in the private sphere, and St.Rv. and SFR trade unions in the public sphere, show an overall pay gap of 11% which is an increase from last year.⁵

³ Félagsvísindastofnun Háskóla Íslands. Flutningur þjónustu við fatlað fólk frá ríki til sveitarfélaga. Bls. 15-16

⁴ http://www.fotlunarfraedi.hi.is/sites/files/fotlunarfraedi/Fataekt_og_felagslegar_adstaedur_drog.pdf

⁵ Blað Stéttarfélaganna; page 5.

14. The gender pay gap in Iceland has been researched a great deal over the years; most of the researches show an unexplained pay gap. Some have concluded the gender segregated labour market in Iceland to be the main reason for the gender pay gap and that the percentage pay rises in the collective agreements only maintain the gap. In the public sphere, research has shown that the difference in wages for women and men is not so much as regards basic wages; it is rather shown in various supplementary payments where men are more likely to get overtime payments and perks.⁶

15. A temporary stipulation, (art. IV.), in the Gender Equality Act stated that the Minister (of Welfare) should in cooperation with the Social Partners' organisations, develop, before January 1 2010, a special certification system on the implementation of wage equality policies and equality in employment (regarding hiring and layoffs). This is still a work in progress. There is also a special committee developing a special standard, which could be used as a base of the above mentioned certification. The development and the cooperation between various stakeholders have taken longer than expected and the committee is still working.⁷

16. Understandably most good things take time, the Government is however encouraged to speed up this work so that the standard and certification policy can be put to use as soon as possible.

17. According to the Government report (Paras 25-28) the new Gender Equality Act ensures for the Centre for Gender Equality (CGE), a more powerful supervisory role with wider authority. This is all well and good but the fact is that adequate resources have not followed this wider role and actions accorded to the CGE by the new Act. It may be concluded that without enough financial resources it is difficult for the CGE to be able to adequately carry out their monitoring of e.g. gender equality committees in municipalities and gender equality policies of companies, as well as to carry out work against gender-based wage discrimination and to be able to serve as a supervisory body seeking to investigate in areas where it believes that provisions of the Act have been breached.

18. ICEHR urges the Government to render the CGE more financial resources so that it can adequately fulfil all its functions according to the Act on Gender Equality. This is especially urgent in view of the Centre possibly being given an extended role as an overall equality body on all grounds of discrimination.

19. The Complaints Committee on Gender Equality operates on the basis of the Gender Equality Act. The Committee considers cases brought before it concerning alleged violations of the Gender Equality Act. This means that the Committee plays the same role as before, but under the new law it delivers a binding decision on whether or not the Gender Equality Act has been violated. Previously, the Committee could only deliver a non-binding opinion. These measures seek to give added weight to the Committee's decisions. The Committee is an independent administrative committee – neither the Minister nor any other authority can give the Committee binding instructions regarding the outcome of a case. The Committee's decisions are final, and they cannot be referred to any other administrative authority. However, parties to a case brought before the Committee may refer its decision to a court of law. In that case the Committee can decide to postpone the obligation to comply with the decision on the request of either party.

20. However, it is debatable how much weight and influence decisions of the Committee really have. Recent practice has shown that although the Committee finds that a governmental authority has violated the Gender Equality Act, the courts do not always agree and most often the governmental authority refers the Committee's decision to a court rather than accepting it as is and pay the complainant a settlement.

21. In the Government report, Paragraph 32, it is mentioned that according to the new Act each ministry is required to appoint a gender equality expert to mainstream gender equality within its sphere and the institutions within its auspices. Article 13 of the Act specifically states that these

⁶ Velferðarráðuneytið. Skýrsla velferðarráðherra um stöðu og þróun jafnréttismála. Febrúar 2011. Bls. 28-29.

⁷ Velferðarráðuneytið. Skýrsla velferðarráðherra um stöðu og þróun jafnréttismála. Febrúar 2011. Bls. 27-28

experts should have expert knowledge of equality issues and according to the general budget for the year 2008 these gender equality experts were supposed to work fulltime on the issue and 80 million ISK were allotted for this purpose, so that all the ministries could meet with this requirement. But so far only two ministries have a gender equality expert working fulltime on gender equality and other ministries have assigned this to staff to take these matters on in addition to their other assignments. Very few or even none of these people working on gender equality have expert knowledge in this area. However, yet again insufficient funds seem to be allotted to this purpose. As regards the funds allotted to this purpose they seem insufficient and insubstantial. As ministries, except for the Prime Ministry, had not priorly used their money to hire the experts when the banks went under in October 2008, the money was used for other purposes. Since then, it has become evident that it is hard to meet with the stipulations of the Act without the availability of adequate financial resources.

22. Recently, there have also been some very positive developments regarding gender equality. The Government report (Paras 36-37) mentions that the Minister of Social Affairs and Social Security (now Minister of Welfare) is expected to present a motion for a Parliamentary resolution before Parliament regarding the implementation of a gender equality action plan. In May 2011 such a plan was presented and adopted by the Parliament. The action plan is valid for four years or from 2011-2014. The Government has also, slowly but surely, been introducing gender budgeting into their policy, and last year 19 experimental projects, divided between all the ministries, were aimed at gender equality. All ministries now follow a three-year plan implementing Gender Budgeting and Gender Responsive Budgeting.

23. Gender based violence/violence in close relationships is a persistent problem in Iceland that has been exacerbated by the economic crisis. More women seek assistance at the Women's Shelter, the Police and other assistance organizations. Latest statistics from the Women's Shelter, a leading NGO providing shelter for women subject to violence in close relationships, show that 2011 was a very busy year for the Shelter. In 2011 a total of 174 women and children fled their homes and sought residence in the Shelter because of violence. This number is consistent with that of previous years, despite last year's adoption of the so-called "Austrian-way" (Act on Restraining Orders and Expulsion from the Home no. 85/2011), authorizing the police to remove the violent person from his home and moreover bar him from returning home for some time. Although this remedy has only been resorted to once in the past nine months, it nevertheless provides better protection for women and children suffering from violence in close relationships and is, as such, welcomed by ICEHR.

24. A quarter of all women seeking help at the Shelter return home to the same violent situation. Pertinent authorities claim that women hesitate to leave their abusive husbands for fear of not being able to sustain themselves financially. The new Act on Restraining Orders and Expulsion from the Home is designated to make it easier to exercise such measures against violent partners/stalkers and will hopefully make a difference in these cases. One major improvement entailed by the Act is that the police must now make a decision on restraining orders and/or expulsion requests within three days. The request can come from the victims themselves, their family or any other close contacts. If the victim is a child, his or her guardian can make the request as well as the social- or child protection services. In addition, the Chief of police in each police district can on take up a case on his own initiative if he believes it to be necessary. This Act is a great improvement for women and children suffering from domestic violence, but it should nevertheless be kept in mind that the Act is very recent, merely effectuated on 10 June 2011, so there is very little experience of its effectiveness yet. Furthermore, it has been suggested that awareness on the new Act is lacking in most sectors of society, whether it be police, victims or the general public. Also, even if in later years the heightened risk of women and girls with disabilities of becoming victims of domestic violence and abuse has been brought to light by various organisations, there is lack of adequate measures made available to these women and girls.

25 Recently, the Centre for Gender Equality issued a pamphlet aimed at immigrant women in

abusive relationships, informing them of their rights as well as those working with these women, social workers etc. Little else has been done to inform immigrant women of their rights (useful information can however be found on the Multicultural and Information Centre's website). More has been done to provide them with opportunities to learn the Icelandic language, though many women are hard to reach in order to provide them with information about such courses. NGO's have made efforts to reach immigrant women and to further their participation in society, although more must certainly be done.

26. ICEHR encourages the Icelandic Government to educate the police on domestic violence, especially the status of immigrant women and disabled women in such relationships and see to it that the police are also educated on new law amendments like the one mentioned above so that people all over the country will enjoy equal protection.

Article 6 and 7 - Right to work and to just and favourable conditions of work

27. Since the crisis in 2008 the unemployment rate in Iceland rose considerably and is still quite high compared to what it used to be before the crisis. In May 2011 the unemployment rate was 7.7%, in February 2012 it was 7.3% and the group of people living with long-term unemployment increases every month. Today 33% of the group have been unemployed for a year or more and 52% have been unemployed for more than six months.⁸ Despite this development a comprehensive policy for employment in Iceland has not been formed, although several measures have been implemented, such as for young unemployed people, immigrants etc. At the beginning of the economic crisis the Government introduced an Action Plan for Welfare. Some measures proposed by the plan addressed employment issues directly. This action plan does however not fully consist with the Committees' guidelines on how to devise such an action plan. It does not seem to have been made in cooperation with parties from the labour market or other interest groups and measurable goals in employment matters are lacking.

28. In February 2011 the Government presented a document called Iceland "2020 – governmental policy statement for the economy and community". The Iceland 2020 policy statement is a vision for the future, developed through dialogue and collaboration between hundreds of Icelanders throughout the country and in consultation with regional associations, local authorities, trade unions and economic interest groups. This document consists of measurable goals and plans to strengthen education, culture, innovation and development, environment and social infrastructure. This document is very promising and it will be interesting to follow its implementation.⁹

29. Unemployment rate amongst young people has been very high since the economic crisis and in the 3rd quarter of 2011 the unemployment rate amongst people aged 18-24 was 9,5%.¹⁰ The Government has implemented special Labour Market measures directed at young people such as "Nám er vinnandi vegur" ("School is work"), where 1000 young job seekers could register in schools (both upper secondary schools and Universities) and keep their unemployment benefits until the end of 2011. In 2012 they can either apply for a student loan from LÍN (the Icelandic Student Loan fund), only available to some, others will get support through other measures being prepared by the Ministry of Welfare and will be funded by the unemployment fund.¹¹

30. In General comment no. 5 Paras. 20-24 the Committee emphasises that States should not only offer "sheltered" workplaces for persons with disabilities but support the integration of these persons into the regular labour market. In a report of a working group for the Welfare Watch on people without employment, the Government was encouraged to look into possible changes to the

⁸ <http://www.vinnulastofnun.is/files/Sta%C3%B0a%20og%20horfur%20des.%2011.pdf>

⁹ Prime Minister's Office. Iceland 2020 – governmental policy statement for the economy and community. <http://eng.forsaetisraduneyti.is/iceland2020/>

¹⁰ Hagstofa Íslands. Hagtíðindi – Laun, tekjur og vinnumarkaður. (2011:9). Bls. 4

¹¹ <http://www.velferdarraduneyti.is/frettir-vel/nr/32981>

social benefits system so that beneficiaries can use their work capabilities without losing their right to benefits.¹² The minister for Welfare has established a working group to address future employment possibilities for disabled people. The group is supposed to review and define what is considered to be employment-related rehabilitation for specific groups according to Act no. 55/2006 on Labour Market Measures. The group is supposed to give its report before the end of 2011, but as yet, the report has not been issued.

31. Complaints have been made by the middle aged/elderly about encountering difficulties in obtaining employment past the age of 55-60. This issue did not seem to be a major problem in Iceland probably due to the very low unemployment rate in the country before the recession. This has changed somewhat and is likely to change even more in months to come. It is also of concern that unemployed people over 50 years of age will have a hard time re-entering the labour market. The old age pension has not kept up with the cost of living and due to the recession, many pension funds have had to lower monthly payments to pensioners by up to 20% and the amount that pensioners can earn by working without it affecting their pension has recently been lowered, both resulting in diminished living standards for the elderly.

32. The unemployment rate for foreigners has been very high in Iceland for the past years and in February 2012 the rate was 18.8% of all registered in the unemployment register (2.186 out of 11.621). According to information from the Directorate of Labour in November only 686 of these 2021 took part in some sort of special Labour Market measures.¹³ It is important to direct these measures at a wider group of people especially foreigners since they are less likely to have a strong support network of family and/or friends. The Directorate of Labour has tried to reach this group by having information translated into different languages but perhaps additional measures would give better results.

33. Regarding the Act on Foreign National's Right to Work no. 97/2002 ICEHR points out that foreigners who only possess temporary work permits do not have the right to unemployment benefits according to article 13. d. of the Act on Unemployment Benefits no. 54/2006. Some of these workers have worked here for two or three years and paid taxes and other fees to the Government. ICEHR considers them to be discriminated against by denying them unemployment benefits if their work agreement with the employer is terminated. ICEHR welcomes the amendment made to the Act in August 2008 (Act 78/2008) for the work permit to be issued in the name of the foreign worker and not in the name of the employer. The work permits are though always only valid for employment with a specific employer (the Government report Para. 81).

34. *ICEHR urges the Icelandic Government, in light of the current situation, to review its employment policy with a view to better implement measures that offer all groups of society the possibility of work and work related projects.*

35. ICEHR would like to address a special issue in light of Article 2, Para 2 in conjunction with Art 6 of the Covenant, which stipulates the right to work for everyone. In Iceland, the fisheries management system has been debated a lot. The debate has especially been on the Act on fisheries and how the Act came about in the 1980's. The Act established the following fisheries management system; owners of ships engaged in fishing of demersal species during the period of 1 November 1980 to 31 October 1983 would be eligible for fishing licences. The ships were entitled to fishing quotas based on their catch performance during the reference period. The main rule was that fishing permits were to be restricted to vessels, which had received permits the previous fishing year. Accordingly, the decommissioning of a vessel already in the fleet was a prerequisite for the granting of a fishing permit to a new vessel. With the implementation of the Fisheries Management Act No. 38/1990 (hereafter referred to as the Act), with subsequent amendments, the catch quota system was

¹² Velferðarvaktin. Stöðuskýrsla vinnuhóps vegna verkefnisins „Fólk án atvinnu“. 2009. Bls. 7

¹³ <http://www.vinnumalastofnun.is/files/n%C3%B3v.%2011.pdf>

established on a permanent basis. It was based on the allocation of catch quotas to individual vessels on the basis of their catch performance, generally referred to as “the quota system”. In practice, notwithstanding section 1 of the Act, (providing that the fishing banks around Iceland are a common property of the Icelandic nation and that allocation of catch entitlements does not endow individual parties with a right of ownership of such entitlements,) fishing quotas are treated as the personal property of those to whom they were distributed free of charge during the aforementioned reference period. Other persons must therefore purchase or lease a right to fish from the beneficiaries of the arrangement, or from others who have, in turn, purchased such a right from them.

36. A complaint on the “quota system” was submitted to the UN Human Rights Committee (no. 1306/2004). The Committee concluded that the practice of allowing “quota” owners to lease and sell their quotas as if their personal property, disclosed a violation of article 26 of the Covenant on Civil and Political Rights and that the state party was under an obligation to provide the authors of the case with effective remedy, including adequate compensation and review of its fisheries management system. Many have claimed that since the “quota” system was established it has had an impact on the freedom of work in relation to the right to choose your work freely and therefore can count as a an interference, if not violation of Article 2, Para 2 in conjunction with Article 6 of the Covenant. At minimum, such “interference” must be justified under Article.

37. Despite the ruling of the UN Human Rights Committee little has changed in these matters and, as yet, no compensation has been paid. However, very recently a bill on a new Act on fisheries has been presented to the Parliament. As yet, there has not been much debate on the new bill but there has been criticism on the Government not having had extensive consultation with all interest groups when drafting the new legal bill, for consensus to be reached on these issues.

38. Article 7a stipulates that the remuneration for work should be fair and sufficient to guarantee a decent living for all workers and their families. Although the majority of workers in Iceland are party to some sort of a collective agreement, as a result of the economic crisis in Iceland when the local currency fell and with ever increasing inflation the purchasing power of wages has fallen. The decrease was 9% in 2009 and an extra 3% in 2010. For the last 12 months it has increased by about 3,7% which is a very positive development.¹⁴ After the crisis the Government also decreased or froze wages of government officials and workers. It was only just in the last months of 2011 that they withdrew the wage freeze and government employees got some increase in their wages through new collective agreements. This development had more effect on women as they represent about 65% of all government workers.¹⁵ Although it is understandable that the Government had to make some cut-backs and enforce restraining measures they always have to consider the gender equality aspect and not make cut-backs only where women are more affected than men. There has been a tendency to cut-back in spheres where many women work, like in nursing and kindergartens, while effort is made to build up work in spheres consisting mainly of male workers, like in the construction industry. See more discussion about the gender pay gap regarding Article 3 above.

39. In comment 23 of the concluding observations of the Committee, occupational health and safety is mentioned and the state party is urged to enhance its efforts to reduce the frequency of occupational accidents both on land and at sea. The Government report gives a good and comprehensive overview of the situation as it is. Some progress has been made and the Administration of Occupational Safety and Health (AOSH) has done great work on awareness raising but as always there is room for improvement. ICEHR is concerned that in times of recession and cut-backs, the workload and stress relating factors have increased due to massive layoffs both in the public and private sector. Increased workload and stress can be hazardous for workers and sometimes lead to increase in occupational accidents and other health problems.

¹⁴ Hagstofa Íslands. “Laun, tekjur og vinnumarkaður”. <http://hagstofa.is/Pages/95?NewsID=8548>

¹⁵ Eva Bjarnadóttir og Eygló Árnadóttir. „Konur í Kreppu“. Bls. 39

40. ICEHR encourages the Icelandic Government to consider occupational safety and health when making cut-backs and to consider carefully the effects of added workload and stress related factors on workers. It is also necessary to allocate more resources to the AOSH to strengthen their work and ensure actual and effective monitoring.

Article 9 and 11 - Right to social security and adequate standard of living

41. Article 76 of the Icelandic Constitution guarantees the right to social security and adequate standard of living. The article states that everyone should be guaranteed assistance especially for reasons of health, old age and disability. In general legislation various acts aim at protecting this right and to establish a mechanism around benefits and other support available to people in need. These acts are for example the Act on Social Security no. 100/2007, the Act on Health Insurance benefits no. 112/2008 and the Act on Municipal Social Services no. 40/1991. The Ministry of Welfare has overall supervision of these policy areas.

42. In its General comment no. 19, the Committee states it not necessary for states to have a special action plan regarding social security if they have a holistic system that guarantees this right equally for all. ICEHR believes such a plan to be necessary in Iceland today especially in view of the current economic situation. The Icelandic welfare system is struggling due to more people needing assistance in times of great budget cuts in all public service. For this reason we believe it to be necessary for the Government to form a holistic policy with measurable short time goals concerning minimum services rendered and protection of vulnerable groups and also with long time goals pertaining to any accrued rights to be restored and when and how they will be fully covered. In 2009, the Government published an action plan for welfare; this action plan does not seem to have been based on the Covenant as did not include actions on how to reverse the effects of the budget cuts. There is also no mention of human rights, as the plan seems to mostly focus on welfare and actions to be taken in the year 2009. Also, the plan does not include any monitoring of the proposed actions.

43. International research shows that living in poverty is harmful to people's health and often leads to social exclusion, as well as reducing the quality of life. This is not only costly to the individual living in poverty but for the society as a whole. Iceland has been doing well in international comparisons measuring poverty and usually the country sits in one of the top places. In spite of that, the number of families or individuals living below poverty line (those who have less disposable income for sustenance than the low-income threshold) increased in the last decade and single parent families/homes are the most vulnerable group and in most danger of living in poverty. Around 30% of these homes live below the poverty line and the ratio has increased from 23% in 2007.¹⁶

44. Since 2004, approximately 10% of children (around 7.800 children) have been living in households with incomes under the low-income threshold. Many families can neither pay their bills nor buy food and they must turn to aid organizations for food donations or other necessities. This group experiences a lot of stress, anxiety and worries about their families' survival. This has very negative effect on the family life and the children. It should be noted in this context, that although the households live right on the poverty line it doesn't necessarily mean that the children suffer any lack of necessities as most of the parents living in these conditions try to give their children what they consider to be necessary although they find it difficult to cover the costs of their children extracurricular activities.¹⁷

45. In an article published in one of the local newspapers on 17 January 2012 the spokesperson for Fjölskylduhjálpi Íslands (Iceland's Family Aid) a food aid organization said that 9900 individuals sought assistance from the organization in December 2011. This was a great increase from the same month in 2010 where in the whole country, 5000 individuals sought assistance from help organisations. The

¹⁶ Áfangaskýrsla velferðarvaktarinnar. Júní 2011. Bls. 10

¹⁷ Áfangaskýrsla velferðarvaktarinnar. Júní 2011. Bls. 10

spokesperson said that they had seen a great increase in elderly people seeking assistance or about 204.5%. She believed though that the charity/aid organization only saw the tip of the iceberg and that there were a lot more people having difficulties with making ends meet every month but did not have the courage to seek assistance and also that there were people who were not even capable of seeking assistance by themselves. She said that they were preparing for the year 2012 and expected increase in the numbers of individuals forced to seek their assistance. This information is in line with the experience of other help organisations such as the Church Aid and the Mothers' Aid.¹⁸

46. The Icelandic state is required to ensure the social security of all, i.e. to ensure the right for an adequate standard of living. Everyone should have the option of meeting their basic needs with dignity. As may be discerned from above, the Icelandic state has not been able to adequately ensure the social security of all. In addition, there are instances where people have been affected even more severely than others due to difference in their circumstances as may be discerned from the following examples:

47. In the past two years, disabled individuals, immigrants to Iceland from states within the EEA area, have sought assistance since the Social Security Institute has turned down their application for disability benefits on the grounds that they are only eligible for disability benefits within the Icelandic social security system if becoming disabled after having moved to Iceland. In other respect, all these individuals do meet with the stipulations of the Social Security Act as regards eligibility for disability pension. Even when these individuals have lived here for many years their right to disability benefits does not increase whereas disabled individuals from states outside the EEA area accumulate rights to disability benefits in ratio to their time of residence in Iceland since the basis of benefits for the disabled is calculated from the ratio of residence in this country. Individuals, who must then rely on diminished assistance, must apply for benefits from the previous country or countries of residence. That gives rise to a twofold problem. On the one hand, disability is valued differently in each country and the individual may not have any rights in the other country. On the other hand, even though individuals have rights in other countries, it is not substantial enough to ensure an adequate standard of living in this country.

48. The UN puts much emphasis on the economic independence of the elderly and states are supposed to guarantee all elderly people in adequate support so that they can enjoy a minimum standard of living. It is clear that economic and social safety contributes to improved health and well-being of individuals and is socially desirable.¹⁹ Policy making in the social and healthcare systems in the coming years should take into account the growing need for basic services in the economic and social sphere as well as increased budgets for the benefits system. It is a common understanding that social benefits systems should protect individuals and families from loss of income due to e.g., unemployment, health reasons, poverty or other variables that may occur in life. These systems represent a broad political and social force aimed at justice and cohesion in society. Steps should be taken to sustain the financial capacity of social services when dealing with vulnerable groups.²⁰

49. People needing social assistance have claimed that the social benefits system does not serve its purpose. Although most needy families with children truly get assistance of some sort, it does not meet the essential living costs. Moreover the benefits do not help these people out of poverty, they rather rather maintain it. The apparent cause for this is that the welfare system is moderately small,

¹⁸ Article in mbl.is. 17.1.2012. http://mbl.is/frettir/innlent/2012/01/17/9_900_thurftu_adstod_fyrir_jol/

¹⁹ Heilbrigðis- og tryggingamálaráðuneytið „Skýrsla stýrihóps um stefnumótun í málefnum aldraðra til ársins 2015“. Bls. 10.

²⁰ Efnahags- og félagsmálaráð Sameinuðu þjóðanna. *Svæðaaætlun alþjóðlegu Madridarframkvæmdaáætlunarinnar um málefni aldraðra 2002*. Bls. 84.

coordination and cooperation between welfare organizations on a municipal and governmental level is lacking.²¹

50. It is stated in the Government report (Paras. 113-114) that the emphasis in social security has recently been on the affairs of the elderly. In reality, the main focus in these matters has been on housing and services rendered at the home. Some progress has been made but there is still a long way to go before the goals set in 2006 will be accomplished. According to article 17 of the Act on Social Security, everyone 67 years old or older which have resided in this country for at least three years from the age of 16-67 are entitled to old age benefits. However, to receive full benefits the individual has to have lived in Iceland for at least 40 years during the period. This already affects a number of people and will in future have an increasing impact as elderly immigrants are a growing group of people. The benefits are listed in the Government report (para. 117 and tables 1- 4), although the amounts have changed somewhat. The benefit amounts and their development over the years have been debated greatly and the National Association of Senior Citizens (LEB) has often seen reason to send out resolutions where they criticise the benefits and the status of old age pensioners. In May 17 2010 they sent a resolution to the Government where they criticised that in cut-backs to the State budget, the old age benefits were the first to get cut. They also criticised that the common practice of the benefits following the minimum wage limit according to collective agreements was discontinued, the living conditions of old age pension beneficiaries have been reduced while the minimum wages have stayed unchanged or even risen.²² LEB sent out a new resolution on December 23 2011 where they proposed to the Government, who intended to withdraw the salary reductions for parliamentarians and ministers effective from January 2009, that perhaps it was also time for change for the old age pensioners.²³

51. Another issue which has been severely criticised through the years, is how income affects the pension calculation. The more income the pensioner has the less benefit he gets. Para. 117 in the Government report states that no income of a spouse reduces the amount of benefits to pensioners. This is not true for capital gains. Half of the capital gains of a spouse are calculated as an income for the pensioner and can have a substantial effect on the calculation of the benefits.

52. *ICEHR encourages the Government to review the social security system with the aim of simplifying it and making sure that people relying on benefits for an adequate standard of living may do so and thrive.*

53. In a status report from May 2011, the Welfare Watch, which was established by the Minister of Welfare, stated that it seemed that those who were disadvantaged before the economic crisis are worse off now and their financial, social and mental situation has diminished.²⁴

54. In August 2010, the Icelandic National Audit Office issued an audit of the services rendered by the Icelandic Government to people with disabilities. The report shows that no holistic policy has been formulated on the affairs of this group. Financial resources have not been in accordance with regular estimates of the demand for services. Monitoring of municipalities and regional offices in charge of the services has been ineffective and equal treatment independent of residence etc. has therefore not been guaranteed for those in need of these services. Core operational factors of services around the country are not based on conformal procedures and therefore comparison of whether the services rendered are of equal standards, is not possible. Furthermore, the National Audit Office stated that even after investigating, it could not evaluate whether services provided for people with disabilities are efficient, effective or according to legislation.²⁵ These services were transferred from

²¹ Prime Ministry (2005) Committee on the strategy in the affairs concerning children and young people. *Suggestions in matters concerning the affairs of children and young people*. Reykjavík.

²² Félagsrit Landsambands eldri borgara. „Listin að lifa“. Bls. 44

²³ http://leb.is/index.php?option=com_content&view=article&id=222:yfirlýsing-fra-leb&catid=2:frettir&Itemid=100036

²⁴ <http://www.velferdarraduneyti.is/media/velferdarvakt09/AfangaskyrslaHollunFaetiVor2011.pdf>

²⁵ The Icelandic National Audit Office; Report to Alþingi. Service Rendered to Disabled People. August 2010. page 5

the Government to the municipalities in January 2011 with the aim of improving the services by bringing them closer to the recipients. ICEHR welcomes this change but is however concerned that the lack of monitoring and holistic policies will increase the risk of services not being equally rendered to all recipients.

55. Some immigrants have little knowledge of their rights and in some cases it has proven difficult to provide them with adequate counseling if they speak neither Icelandic nor English. Interpretation services are not as a general rule provided by Government or municipal institutions, it is often left to the individual office to decide on such services. ICEHR provides free legal counselling to immigrants, through a service agreement with the Ministry of Welfare and interpretation is provided free of charge if needed. Reykjavík City offers general counselling for immigrants through appointments and telephone services. However, many are not aware of these services, some are isolated and hard to reach and all sorts of misconceptions are common in the immigrant society. For example, some foreign nationals hesitate to apply for unemployment benefits or financial assistance from municipalities as they believe that if they receive these benefits or assistance either it will postpone their possibility of becoming Icelandic citizens for even up to three years. This is however not the reality as the Ministry of the Interior assesses applications for citizenship and various issues regarding the applicant are taken into account and therefore it is not automatically guaranteed that people are denied citizenship even if having received temporary assistance.²⁶ Some form of education on society available or even mandatory for immigrants, might help improve their situation.

56. In a recession there is special reason to consider the above-mentioned vulnerable groups and ICEHR urges the Government and the minister of Welfare to make action plans with the goal to eradicate poverty in Iceland.

Article 10 - Protection of the family

57. Following the collapse of Iceland's three major banks, the Government imposed strict austerity measures with a view to remedy state finances. This holds true for almost all areas of the public sector, but the families in the country who have suffered a substantial rise in housing loans carry a particularly heavy burden and extreme cuts to various benefits with detrimental effects, not only for the people but also for the progress made in welfare matters prior to the crisis.

58. One of the most pressing concerns is repeated cuts to the right to childbirth leave payments. Since the crisis, the roof on maximum payments from the Childbirth Leave Fund (CLF) has been reduced three times by substantial amounts. Four years ago the roof was established at 535.000 ISK, today however, the roof on maximum payments has been dropped to a mere 300.000 ISK at the same time commodity prices have been rising, resulting in dire discrepancy. Further pertinent restrictions have been implemented as regards the percentage of parents' monthly income to which they are entitled each month from the CLF. Parents were entitled to 80% of their monthly salary in 2008, but today this percentage applies only to the first 200.000 ISK a parent earns and 75% of the amount exceeding that amount, but never more than the above mentioned maximum.²⁷

59. ICEHR is concerned about this development since such a low roof on maximum payments arguably contravenes the purpose of the Childbirth Leave Act no. 95/2000 purposes, namely to ensure children's access to both parents as well as giving both parents the opportunity to coordinate family life and to participate in the labour market.²⁸ In 2004 the maximum roof comprised of total 600.000 ISK and even then concerns were raised on possible harmful effects on parents taking

²⁶ <http://www.velferdarraduneyti.is/media/velferdarvakt09/AfangaskyrslaHollunFaetiVor2011.pdf> Bls. 3

²⁷ Information available at Childbirth Leave Fund webpage:
http://faedingarorlof.is/files/upph%C3%A6%C3%B0ir%20f%C3%A6%C3%B0ingarorlofs%20og%20f%C3%A6%C3%B0ingarstyrks%202012_1711323122.pdf

²⁸ See article 2 of Act no. 95/2000.

childbirth leave should the amount be any lower, especially as regards fathers who generally have higher income than mothers in Iceland.²⁹ The roof has nevertheless been lowered to such an extent that higher income parents, in particular fathers, are taking less advantage of their right to childbirth leave than before. This development is likely to continue because the most recent amendments made to the Act in 2009 have yet to be effectuated.³⁰ This is caused by the long period of time – up to 36 months – parents have to exercise their right to parental leave, meaning that complete statistics on children born in 2009-2011 will not be available until 2012-2013. Preliminary data nevertheless implies negative effect on the possibility and/or willingness of fathers to go on paternal leave³¹ which is in line with studies showing that a high roof on maximum payments is the cornerstone for ensuring that fathers exercise their right to childbirth leave.³²

60. Parents with higher income than 300.000 ISK are expected to exercise their rights to parental leave to a much lesser extent than in previous years.³³ Due to gender wage inequalities, 45,7% of men can be expected to reach that maximum payment roof while 19% of women are. This raises serious concerns regarding gender equality, both in terms of participation in the labour market as well as in providing opportunity for equal sharing of parental responsibilities and assuring equal access for children to both parents. This constitutes a great leap backwards in the progress made towards greater equality between men and women since the fundamental amendments were made to the relevant Act in 2000.³⁴ This is moreover a step backwards in the fight against the gender pay gap in Iceland and is, as such, regrettable. Therefore it is important that the Government revisit the Act and reinstate higher maximum payments as soon as possible in order to further encourage equality between parents.

61. In the light of the foregoing, ICEHR encourages the Government to plan and/or set specific time frames for reversing this regrettable development, by means of reinstating a roof on the CLF's maximum payments that conforms to the Act rather than contravenes it.

62. ICEHR welcomes the amendments to the Act on Foreigners no. 96/2002, which removed the requirement that the foreign spouse be at least 24 years old to be eligible for residence permits based on marriage. However, the Centre finds the new paragraph, stipulating an investigation of all married couples, falling under the Act on Foreigners, if the foreign spouse is 24 years of age or younger, to be overly onerous, raising questions in relation to discrimination, the right to marriage and respect for private and family life. The provision also stipulates that if there is reason to believe that a marriage has been entered into for the sole purpose of obtaining a residence permit and it is not conclusively demonstrated that this is not the case, a family reunification permit will not be issued. The same applies if there is reason to believe that the marriage has not been entered into with the consent of both spouses. The Act does not clarify what these 'reasons' could be or how it is 'conclusively demonstrated' that the marriage is not one of convenience. An investigation should only take place if there is reason to believe that both partners have not entered into marriage willingly.

63. It is of concern that not enough resources have been allotted to the child welfare and protection services. Fewer employees with greater caseloads has been common practice in social services over

²⁹ Comments annexed to Parliamentary Bill for Act No. 90/2004.

³⁰ Report of the Childbirth Leave Fund on statistical Information from year 2001-2009, p. 12.

³¹ Eva Bjarnadóttir and Eygló Árnadóttir, „Konur í Kreppu“ Reykjavík 2011, p. 10. Saying that payments to fathers in childbirth leave have decreased by 8,9% but increased by 4,5% with mothers.

³² Duvander, Ferrarini, & Thalberg, *Swedish Parental Leave and Gender Equality: Achievements and Reform Challenges in a European Perspective*, working paper 2005/11. Institutet för Framtidsstudier, Stockholm 2005.

³³ Report of the Childbirth Leave Fund on statistical Information from year 2001-2009, p. 21.

³⁴ Report by the Minister of Welfare on Childbirths and Childbirth Leave in Iceland, disseminated in the Parliament 2010-2011, p. 19-20.

the years and although service providers work in a responsible and conscientious manner, in the end they are only human. Therefore something is likely to go wrong and that is not acceptable when the welfare of children is at stake.

64. There has been a steady rise in the number of cases reported to the child welfare authorities since 2005 with an exception of 2008 when the numbers fell. However, there does not seem to be any indication that the rise in 2009 was attributable to economic difficulties or the increase in unemployment following the economic crisis. It rather seemed that people were more alert to childrens' circumstances and prone to err on the side of caution. This does not mean that the economic crisis will not have any effect in the future as was the case in Finland after the economic crisis there. In Finland the effects of the economic difficulties did not appear until 5-7 years after the crisis. The effects were in the form of an increase in the number of children needing assistance from child welfare authorities.³⁵ This year, there has already been an increase in reported cases of neglect so it is evident that the Government must be alert and ready with solutions and measures to assist these children and their parents.³⁶ It is also the opinion of many child protection staff members that many cases are more complicated, serious and difficult than before.

65. Domestic violence is a serious concern in Iceland and by nature and social structure not a very visible problem. There still exists a culture of silencing and considering domestic violence to be a private matter, even if there has been considerable progress in later years through awareness raising as well as more open debate. In the case of children living in violent conditions, the police protocol on reporting only applies to those who are being physically abused and does not apply to a children witnessing such abuse. The interests of the adult are placed before the interests of the child, which not only violates the Convention on the Rights of the Child but also goes against the general consensus among professionals that domestic violence has an adverse affect on a child who witnesses it, regardless of whether they suffer any physical abuse. These findings are in accordance with *Save the Children Iceland research on children witnessing domestic violence* (Pub. Feb. 2011). On this basis, it is of great importance that those working with children have sufficient knowledge so as to be able handle these situations. ICEHR recommends that the Icelandic Government secure adequate education and training for all professionals working with children that include compulsory curricula on dealing with children in crises.

66. According to a child protection agency staff member there are about 200 cases annually where suspicion of a sexual abuse of children is reported to child protection services. Sexual abuse is confirmed in approximately half of the cases. This is a relatively higher number of cases than in neighbouring countries. It is not to be concluded from these figures that sexual abuse of children in Iceland is more common than elsewhere, there is no indication of that, but rather that Icelandic society is more aware of and sensitive towards the problem.³⁷ Of the 100 cases reported to child protection agencies, very few lead to prosecution and even fewer to conviction.

67. ICEHR is concerned that the Government, regarding sexual abuse of children, coordinates no preventive measures. The preventive measures are limited to non-governmental organisations usually with limited or no support from the Government. While there is precedence when it comes to drug, alcohol and smoking prevention education and campaigns, this is not the case with sexual abuse prevention.

68. In 2010 the Act on Artificial Insemination no. 55/1996 was amended as to permit single women with fertility problems to utilize donor eggs as well as donor sperm for purposes of artificial insemination. This amendment moreover applies to couples where both individuals have fertility problems, regardless of their sexuality. The Act thus promotes greater equality among individuals

³⁵ The Child and Family Welfare Research Centre. *Research made for the Ministry of Social Affairs and Social Security*. Page: 5

³⁶ Red Cross Iceland, (2010). *The most Vulnerable Group in Iceland*, report

³⁷ Red Cross Iceland, (2010)

living with impaired fertility, now permitting women not only to get donor eggs but donor sperm as well, but before the Act was amended women were only permitted to undergo artificial insemination by donor sperm. ICEHR is therefore content with these changes as they conform to the fundamental principle of equality enshrined both in the Constitution and various international conventions that Iceland is party to.

69. Current laws in Iceland automatically prescribe a woman giving birth to a child as its mother. Accordingly, law does not permit surrogacy. Recently, the Parliament assigned to the Minister of Welfare to convene a working group with the task of drafting a bill on altruistic surrogacy, keeping in mind at all times the best interests of the child as stipulated in article 3 of the UN Convention on the Rights of the Child. This topic has been subject to a hot debate in Iceland where society seems to be split in two groups of opposing views. Many have claimed it to be unethical to permit a woman to waive her right to the liberty of her own body by undergoing contractual obligations of surrogacy, as protected by articles 71 of the Icelandic Constitution, 3 of the UDHR and 8 ECHR. Also, many questions arise as to the rights of the child born by means of surrogacy. It has also been pointed out that permitting surrogacy would be problematic when it comes to the undisputable right of the child to know both parents, as enshrined in article 7 of the CRC.

70. In light of the foregoing the Government is encouraged to carefully consider all ethical and legal aspects of permitting surrogacy in light of the child's best interests. Moreover it is pointed out that very little experience has been gained worldwide on the implementation of surrogacy, which is prohibited in most European countries and all Nordic countries.

Article 12 - Right to health

71. The health care system in Iceland rates among the top in Europe. Representing one of society's main pillars, the vitality of maintaining progress made in the system hitherto and avoiding retrogressive measures is undisputed. The Icelandic health care system is under pressure due to repeated reduction in resources allocated to health care resulting in poorer public health care services. In the 2009 and 2010 State budget, approx. 8 BISK cuts were made in health care services. Further cuts in 2011 amounted to approx. 1.3 BISK and in 2012 budget cuts will be made for the fourth consecutive year. These measures have undoubtedly left their mark on the quality and availability of public health care services and led to various changes in the system over the past few years. Health care facilities have been merged, hospitals and health care clinics shut down or downsized and many health care service personnel have lost their jobs. This in turn has resulted in reduced services and safety for patients, longer waiting lists and health care professionals moving abroad at unprecedented rate for more positive employment prospects. ICEHR shares concerns with many over this development and encourages the Government to seriously consider reversing these budget cuts as soon as possible. Only by doing so can we regain the positive progress made in health care prior to the commencement of the economic crisis in late 2008. Furthermore, it is very important to make sure that the deteriorating financial status of many individuals and families does not impede their access to adequate health care. Finally, ICEHR stresses the vitality of efficiency in all health care sectors in order to ensure the optimal utilization of health care staff and resources.

72. ICEHR is content with recent changes made to the system of patient participation in medicine expenses as they have remedied several flaws to the old system. The new system not only protects patients from very high medicine expenses, it is furthermore based on the principle of equality. Under the new system people will generally pay full expenses for their medicines up to 22.000 ISK over a 12-month period. Seniors, minors and the unemployed will pay full expenses up to 15.000 ISK. After the first threshold has been reached, people will pay 15% of their medicine expenditures up to 65.000 ISK (45.000 ISK for seniors, minors and the unemployed). If a person's medicine expenditures exceed the second threshold she/he will be entitled to a special licence for free medicine for the rest of the 12-month period. Even though people with low medicine bills pay a higher price for their

medicines under the new system, it is nevertheless beneficial to those with the highest medical bills and more importantly, eliminates the discriminatory character of the old system where there could be a significant difference between medical bills for people based on their type of illnesses.³⁸

73. One of Iceland's major health problems is obesity and other weight-related illnesses such as food addiction and eating disorders. According to a recent study Icelanders are the 5th most obese nation in the world. A staggering 43% of the population is overweight and 21% is obese.³⁹ Food addiction and other eating disorders most likely account for a substantial proportion of those numbers. In 2008, 20% of all school-aged children were overweight. Governmental action is needed to address this growing health problem and reverse its development. The Government allotted 10 MISK to the National Hospital in 2011 with a view to provide treatment for severely obese children and adolescents. ICEHR praises that initiative, but stresses that preventive measures and education are of crucial importance in the fight against obesity and more efficient than post-treatment in the long run.

74. On that same note, ICEHR expresses its concerns over the lack of state funded treatment programmes for food addicts and people who suffer from eating disorders. Here, there is discrepancy in governmental support between different groups of addicts. Unlike food addicts, other addicts such as alcoholics and drug addicts enjoy either free or subsidized treatment options.⁴⁰ In the US food addiction has been recognized as a brain illness and placed in the same category as alcohol and drug addiction.⁴¹ ICEHR is concerned that some addictions are not getting as much focus as they should and therefore people suffering from these addictions are not getting equal treatment and care as people with other addictions. Treatment should be available and accessible for all groups of addicts, regardless of the type of addiction.

75. Harm reduction has been recognized as a component of the right to health for people who use drugs.⁴² Article 12 requires the Government to facilitate harm reduction by various means such as providing for needle and syringe programmes, overdose prevention; youth focused harm reduction services, specific protection for women at risk and necessary law reforms.⁴³ ICEHR considers these services to be either lacking or inadequate. For example there are no syringe and needle programmes provided by the Government but in recent years this role has been assumed by the Icelandic Red Cross and pharmacies that have started to distribute free needles.⁴⁴ HIV and hepatitis C are spreading at an alarming rate among injection drug users in Iceland. Over the past 26 years a total of 271 have been diagnosed with HIV, out of which 55 are addicts who inject drugs. In the past few years this number has been rising, which is cause for concern. Failure by the Government to implement measures for the protection of people from blood transmitted diseases and overdoses – such as harm reduction by providing needle and syringe programmes – constitutes a violation of the right to health in international human rights law.⁴⁵ *In the light of the above ICEHR encourages the*

³⁸ News article on the new medicine expense system: <http://www.velferdarraduneyti.is/frettir-vel/nr/33101>

³⁹ The Boston Consulting Group, Health Care System Reform and short term savings opportunities: Iceland Health Care System project, 7 October 2011, p. 11.

⁴⁰ According to CESCR General Comment No. 14, paragraph 52, violations of the obligation to fulfil under Article 12 ICESCR include, *inter alia*, the insufficient or misallocated public resources which bar individuals or groups from enjoying their right to health.

⁴¹ <http://foodaddictioninstitute.org/FAI-DOCS/Full-Bibliography.pdf>

⁴² UN Committee on Social, Economic and Cultural Rights, Concluding Observations: Russia, UN Doc No E/C.12/RUS/CO/5, 20 May 2011.

⁴³ INTERIGHTS Bulletin, Vol. 16 No. 4 (2011), p. 190.

⁴⁴ This NGO provides a shelter for homeless women and operates through the Icelandic Red Cross, see www.konukot.is

⁴⁵ INTERIGHTS Bulletin, Vol. 16 No. 4 (2011), p. 192.

Government to implement pertinent and effective programmes in order to conform to its international obligations under the Covenant.

76. Dental care for children and adolescents is lacking in Iceland compared to other Nordic countries. Tooth decay among Icelandic children is reported to be double the rate as in Sweden, which can be explained by the fact that dental care for children in Iceland is subsidized by the Government to a much less extent than in other Nordic countries (where dental care for children is free of charge). However the Government does offer partial refund for dental expenditures for seniors and children amounting to 75% of treatment expenses as stipulated by the Government. All children aged three, six and twelve can get free dental inspections from a list of dentists on the basis of a contract these particular dentists have made with the Government. Should dental care for children be free of charge, organized and monitored, the problem of tooth decay would most likely be severely reduced, possibly eliminated. ICEHR finds it paradoxical that the 2012 State budget stipulates a reduction in dental expenditures, which is liable to further exacerbate the problem of poor dental health among young people in Iceland.

77. ICEHR is concerned that no special measures are guaranteed for disabled children who need to be removed from their parents. Today, these children are put in supported foster care, a resource for children with behaviour problems such as ADHD and ADD. The foster parents do not receive any special training to equip them with dealing with complex disabilities and it is clear that this is not an acceptable solution for these children since there is no guarantee that all their needs will be met. Supported foster care is also only a temporary solution and therefore no final solutions are available for children with disabilities who have to be removed from their family.

78. It has been pointed out that in Iceland all too often the access to services for disabled children is limited by their public allocation or their parents' financial standing. Also it is more a rule than an exception that there are extensive waiting lists for the various support remedies established for children and their families by the Disabilities Act. It has been a prevailing problem in the Icelandic health care system that the governmental service institution seeing to the payment of social insurance (Social Insurance Administration, hereafter TR) has not been able to make agreements with various medical specialist for discount payments. Therefore when families with children need to take their children to a dentist or a speech therapist they have to pay large amounts for treatment getting little support from TR. Some families do not have the financial capacity to pay these specialists and therefore the dental health of young children has deteriorated over the last few years. Some children are not getting the necessary therapy, from speech therapists, psychologists and so on, to enable them to develop to their full potential.

79. Suitable health care services must be available to low-income and poor families/individuals as well as others. It is particularly important that the services of dentists and speech therapists are available to children, and that medicine expenses for poor people do not become an onerous financial burden.

Article 13 and 14 - Right to education

80. The right to education is mentioned in the Icelandic Constitution Article 76 Para 2 where it says that everyone should be guaranteed by law the right to education and training to their liking.

81. The right to education in the public school system for disabled children has been effective in Icelandic legislation since 1977 when the first regulation for special teaching was adopted. Access to schools for disabled children and young people has improved greatly over the years, as inclusion is the policy for all the public schools. The policy of inclusion entails that the schools in the child's hometown or local community are supposed to meet his /her educational and social needs bearing dignity, democracy and social justice in mind. It is assumed that all people should have equal or equivalent opportunities in education and that the training meets the criteria of each individual on

his own ground. If parents and school professionals evaluate the pupil's situation so that it is best for him to study in a special school, parents can make such a request temporarily or altogether. In these situations the best interests of the child must however always prevail.

82. There is still capacity for improvement and this policy has not been equally enforced in the pre-, elementary- and upper secondary schools.⁴⁶ It has also been pointed out that even though disabled students attend the same school as able students the teaching for disabled students to a great extent takes place outside the regular classrooms. The preschool system and the higher education institutions such as the University of Iceland appear to be the most progressive and inclusive educational environments in Iceland, the middle area—for ages from 6 to young adulthood—seems to be the most problematic. There has been a lot of special divisions and special learning courses and a general lack of systematic support to disabled students at the upper secondary level.⁴⁷ It is particularly notable that some types of support, such as with assistive equipment for educational and training purposes, cease at the age of 16, from which point individuals have to seek help from the grants available at the local Regional Offices for the Affairs of Disabled People. This has been a much more limited and restrictive remedy. ICEHR is concerned about the dropout rate of these children after finishing the compulsory education.

83. There is limited information on vocational training available for young disabled people. In general, the education system, including access to general university education, vocational training, adult education and lifelong learning, is neither fully inclusive nor free of discrimination, and 'reasonable accommodation' and individual support is usually dependant on the decision of individual schools or programs. ICEHR is not aware of any specific Governmental or legal policy framework that concerns the rights and needs of young disabled people pursuing technical or vocational training.⁴⁸

84. As regards immigrant children, the Acts on compulsory school and secondary upper school stipulate that every school has to prepare a receiving plan for children with another mother tongue than Icelandic. In spite of what laws and regulations stipulate, provisions and services for immigrant students and their parents vary greatly from one school to another. In the school system, the situation of children who do not have sound knowledge of any language, neither their native tongue nor other languages, and do not have roots in any one culture is considered especially difficult and precarious. It is of great concern that a high percentage of this group and other immigrant children drop out of school after finishing compulsory education. Immigrant children are also more at risk of becoming socially isolated or form groups that coexist in conflict with other immigrant groups or groups of Icelandic children.⁴⁹

Article 15 - Right to participation in cultural life.

85. Disabled people who have to rely on special transport to be able to attend i.a. cultural events such as concerts or the theatre, have complained that they have had to leave early, or arrive late due to this transport not being available to them at their own leisure and discretion. ICEHR hopes that as soon as the proposed legislation on discrimination has entered into force, that those affected by such shortcomings in the transport system available to them, may seek effective redress with the relevant complaints body.

⁴⁶ ANED country report on equality of educational and training opportunities for young disabled people – Iceland. Bls. 2-3. <http://www.disability-europe.net/content/aned/media/Report%20on%20equality%20of%20educational%20and%20training%20opportunities%20for%20young%20disabled%20people%20-%20Iceland.pdf>

⁴⁷ Laufey Elísabet Löve, Rannveig Traustadóttir og Hanna Björg Sigurjónsdóttir. Fatlaðir Háskólanemendur óskast. Rannsóknir í félagsvísindum XI, Rvk. 2010. (bls. 164-171)

⁴⁸ ANED country report on equality of educational and training opportunities for young disabled people – Iceland. Bls. 2-3.

⁴⁹ Hulda Karen Daniélsdóttir. *Immigrant Pupils with Special Educational Needs: Cultural Diversity and Special Needs Education* and Icelandic Red Cross, 2010

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