CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Third periodic report of Iceland

* No summary record was prepared for the 13th meeting.

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Third periodic report of Iceland (E/1994/104/Add.25; E/C.12/ICE/2; written replies to the list of issues, prepared by the Government of Iceland (document without a symbol, in English only); HRI/CORE/1/Add.26)

At the invitation of the Chairperson, the members of the delegation of Iceland took places at the Committee table.

Ms. DAVIDSDOTTIR (Iceland), introducing her country’s third periodic report, said it had been prepared under the auspices of the Ministry of Justice. The members of her delegation would first provide a brief description of the changes that had taken place since the submission of the report in October 2001.

Ms. THORARENSEN (Iceland) said the influence of international human rights instruments on the Icelandic legal system had increased significantly in recent years, as shown by various court judgements, three examples of which were given in paragraphs 9 to 11 of the report (E/1994/104/Add.25). More recently, the Supreme Court, in a judgement dated 14 November 2002, had upheld a lower court decision to the effect that articles 74 and 75 of the Constitution, on freedom of association and labour negotiation rights, should be interpreted in the light of the International Covenant on Economic, Social and Cultural Rights; it had also made reference to the European Convention on Human Rights and ILO Conventions Nos. 87 and 88. One effect of that judgement had been to confirm that, in the light of those international instruments, the right to strike, although not explicitly mentioned in the Constitution, was nevertheless protected under article 74 of the Constitution. There had been at least four other cases involving Supreme Court judgements in which the Covenant had been invoked by parties to the litigation.

In 2001, Iceland had been among the first States to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the two Optional Protocols to the Convention on the Rights of the Child, relating to the involvement of children in armed conflict and to the sale of children, child prostitution and child pornography.

Recent legislative changes included a new Foreigners Act, which had entered into force on 1 January 2003. In accordance with article 66 of the Constitution, it established foreigners’ rights in respect of entry into and residence in the country and specified the
grounds on which they could be expelled. It also contained detailed provisions on refugees’ right to asylum and protection against
persecution, in accordance with Iceland’s obligations under international law.

A new Children Act, which referred to the Convention on the Rights of the Child, amended the rules governing paternity and custody,
and stipulated that custody disputes should always be decided by the courts rather than by administrative decision, as had previously
been the case. It also provided for compulsory measures to enforce decisions on access to children.

Ms. GUNNSTEINSDOTTIR (Iceland), summarizing new legislation in the area of social affairs, said a new Child Protection Act had
been passed in May 2002 with the aim of reinforcing the work of the child protection committees and improving procedural and
judicial safeguards. It stipulated that each child protection committee must represent a total population of not less than 1,500 and
clarified the rules to be followed in investigating child protection cases. The decision to deprive a parent of custody had been taken
out of the committees’ hands and must be referred to the courts; parents could appeal to district courts or, in the case of certain
decisions taken by a child protection committee, to a special protection appeals board.

Special provision had been made for the taking of statements from child victims of violence, whether in the Reykjavík District Court
or in the Children’s Centre. The latter provided a wide range of investigation-support services, including counselling in the initial
stages of cases of sexual offences involving children, the taking of statements and medical examinations, all of which were provided
by specialists. A special room had been fitted out for interviews, with proceedings transmitted by closed-circuit television to those
concerned. Under the Code of Criminal Procedure, evidence taken in the Children’s Centre was admissible in court.

The Foreign Nationals (Right to Work) Act had also been amended recently in the light of the increasing demand for foreign labour
and of the fact that foreign workers were more inclined to stay longer and to bring their families with them. A work permit could not
be granted to a foreign national who had no residence permit or had been ordered to leave the country. Employers must provide
health insurance cover in the same degree as that provided under the Social Security Act. Family members could be granted
temporary work permits under certain circumstances. A work permit could be revoked if the foreign national or the employer falsified
or concealed information when applying for a permit, or if the conditions for granting the permit no longer obtained, or as a logical
outcome of the application of the general rules of executive procedure.

The Working Environment, Health and Safety in the Workplace Act had been amended in early 2003, in pursuance of European
Union Directive 93/104/EC on working hours. In every 24 hours, counting from the beginning of the working day, employees must
have at least 11 continuous hours of rest time, which should, wherever possible, include the night shift period. Employees were
entitled to a break if their daily working time exceeded six hours. The average working week, including overtime, must not exceed 48
hours and, during each seven-day period, employees must receive at least one day off in direct continuation of the daily rest period.

The Act also implemented European Union Framework Directive 89/391/EC, on the introduction of measures to encourage
improvements in the safety and health of workers in the workplace. Employers were obliged to take the necessary steps to protect
workers’ health and safety, inter alia by eliminating occupational hazards, on the basis of a health and safety plan that in turn must be
based on a specific risk assessment.

Referring to the Government’s written replies, she said the Government was very concerned at the gender wage gap; according to
one study by the Gender Equality Council, women’s wages were around 70 per cent of men’s. Two thirds of that gap could be
explained by different fields of work, the nature of different jobs, education levels and terms of employment, which left a gap of
between 7.5 per cent and 11 per cent. Much progress had been made in recent years but additional efforts were still needed.

The statistics on low pay were probably not accurate, owing to the fact that, as stated in the written replies, they covered everyone
who submitted tax returns, which included young people from the age of 16, even though most of them lived at home and attended
school, working only during the summer. A study currently being carried out indicated that 5.4 per cent of Iceland’s population had
incomes below 50 per cent of the median. Her Government had set up a special committee to establish how many people lived in
poverty. The standard of living of pensioners aged over 67 appeared to have declined slightly in recent years.

Ms. HAUJKSDOTTIR (Iceland), summarizing recent legislation on social security and health, said two sets of amendments had been
made to the 1993 Social Security Act. The first set of amendments, which had come into force on 8 May 2002, mainly concerned
the State Social Security Institute and the calculation of pension benefits, but also aimed to help insured persons to understand their
rights and benefits better. It also augmented certain rights, by providing, for example, for interest to be paid if benefits were not paid
out at the right time and for overpayments to be recovered in monthly instalments; in addition, university students and persons in
vocational training were to be covered by occupational injury insurance.

The second set of amendments had been introduced following the conclusion of an agreement between the Government and the
Association for the Elderly, whereby the additional pension supplement would be reduced by only 45 per cent of any other income,
rather than 67 per cent, as previously. The monthly amounts for the pension supplement and the additional pension supplement had
also been increased. All those provisions also applied in respect of supplements to the invalidity pension.

The Public Health Institute Act, passed on 15 March 2003, aimed to promote public health in Iceland through the establishment of
the Public Health Institute, which would be responsible for implementing the new national health policy adopted by Parliament in
May 2001. The Tobacco Prevention Act had been amended in March 2003 in pursuance of European Union Directive 37/2001/EC,
concerning the manufacture, presentation and sale of tobacco products, and included provisions on tobacco labelling and information
on substances present in the tobacco.

In addition to the pensions-related provisions already referred to, the agreement between the Government and the Association for the
Elderly had resulted in a commitment by the Government to open more nursing homes for the elderly. Home care and services to the
elderly were also to be improved, and a committee had been established, comprising representatives of the Ministries of Health and
Social Security and of Social Affairs, and of the municipalities of Reykjavík and Akureyri, to put forward proposals in that regard.
The Government had also signed an agreement with the Icelandic Federation of the Handicapped, establishing a committee to propose amendments to the Social Security Act, with a view to increasing invalidity pensioners' rights to a national pension and to draw up vocational rehabilitation plans for the disabled.

With regard to other activities in the areas of social security and health, she said a new State children's hospital had been opened in January 2003, and new statistics on smoking in Iceland were being collected in order to check whether national health policy targets were being met. Lastly, she pointed out that Iceland was a member of the European Union's Mutual Information System on Social Protection, which facilitated the provision of information on social protection in Iceland and comparisons with other European countries.

Mr. KERDOUN asked what foreigners applied for work permits in Iceland. Given the fact that Iceland's economy was based on a single export, fish, and had little manufacturing, its agriculture supplied only domestic needs, the country was poor in minerals, and the service sector constituted the only other major area of the economy, he wondered what kind of work there was for foreign workers to do.

Mr. TEXIER noted that Iceland had signed a number of optional protocols to the international human rights instruments and asked if it intended to play an active role in the open-ended working group set up by the Commission on Human Rights to study the draft optional protocol to the Covenant.

Mr. MARCHAN ROMERO said that the information provided on case law in the area of economic, social and cultural rights was very interesting but there seemed to be some discrepancy between the guarantees provided by article 76 of the new Constitution and the statement in paragraph 8 of the report to the effect that the Covenant did not have direct force of law within the Icelandic legal system. He would welcome clarification on that point.

Ms. GUNNSTEINSDOTTIR (Iceland), replying to the question on foreigners working in Iceland, said that about 2,000 work permits had been issued in 2000, which was over four times as many as in 1994. Many foreign workers were from Scandinavian countries and did not need permits, but there were many immigrants from Poland and Asian countries, such as Thailand and the Philippines, who tended to do unskilled work in the fish factories.

Ms. THORARENSEN (Iceland) added that many Polish immigrants were working in the construction industry, where there was a great demand for labour as a result of Iceland's economic prosperity. In reply to Mr. Texier’s question about the draft optional protocol, she said that, in the light of Iceland’s record in ratifying other human rights instruments, it was highly likely that her Government would be supportive of efforts to adopt it, but she could not presume to speak on its behalf on that matter.

In reply to the questions relating to the status of international human rights instruments in Icelandic law, she said that Iceland, like other Nordic countries, followed what was called a “dualistic” system, under which those instruments were not automatically taken into domestic law upon ratification; rather, legislation was adjusted where necessary to take them into account. The one exception was the European Convention on Human Rights, which had been incorporated into Icelandic law in its entirety in 1994. It had subsequently been found necessary to revise the country’s ageing Constitution, in order to align fundamental and general law, and the drafters of the new Constitution had taken the opportunity to take into account all of Iceland’s international human rights obligations, although they had not incorporated human rights instruments as a whole, as that would have been contrary to Iceland’s constitutional tradition. However, the explanatory report on the new Constitution stated quite explicitly that the constitutional provisions must be interpreted in the light of the international human rights instruments signed by Iceland. As a result, the courts’ approach to human rights issues had changed completely. They increasingly invoked human rights, including economic, social and cultural rights, in their decisions and were sometimes quite innovative in their approach to cases relating to those rights. Indeed, decisions such as the one by the Supreme Court in 2000 on disability benefits, mentioned in paragraph 9 of the report, had sparked a wide debate in Iceland on the role of the courts in the field of social rights. Although in general the courts tended to tread carefully, they were increasingly taking into account economic, social and cultural rights, which in reality enjoyed a greater degree of constitutional protection than might have been expected under a dualistic system.

The CHAIRPERSON invited the members of the Committee to put further questions relating to questions 1 to 3 of the list of issues.

Mr. PILLLAY said that, although he was pleased to hear that the provisions of the Covenant were, albeit indirectly, applied by the courts, he wondered why only some of the rights enshrined in the Covenant had been incorporated in the Constitution while others, such as the rights to housing and to health, had been left out. He also wondered, in the light of the economic prosperity mentioned by Ms. Thorarsen, if Iceland had met the United Nations target of devoting 0.7 per cent of its GNP to official development assistance (ODA).

Ms. BARAHONA RIERA said that Iceland appeared to have fairly comprehensive and up-to-date legislation in the area of gender equality, but such inequality persisted in, for example, the field of employment and in people’s attitudes. She would like to know more about the impact on gender equality of the new rules on maternity and paternity leave and the use of flexible working hours, which, by allowing mothers and fathers to share their parental duties, should make it easier for women to compete on an equal footing with men in the labour market. She would also like to know if Iceland had ever taken affirmative action in the field of gender equality and, if so, with what results.

Although Iceland had few immigrants by European standards, there had been a significant increase in their numbers and she was concerned about reports that ultra-nationalist and racist organizations were beginning to emerge. She would like to know the legal position with regard to the banning of such organizations.

Mr. SADI said he had the impression that the provisions of the International Covenant on Economic, Social and Cultural Rights were not given the highest priority in the Icelandic legal system, as most of the constitutional amendments had been modelled on the European Convention on Human Rights and the International Covenant on Civil and Political Rights. He was concerned that the
Mr. MARTYNOV, referring to article 2, paragraph 1, of the Covenant, said he understood that 40 per cent of Iceland’s ODA was spent on bilateral projects: he would like to know if the requirements of the Covenant were taken into consideration when allocating funds to those projects.

Mr. TEXIER said that Icelandic judges appeared to be ahead of their European counterparts in giving effect to the provisions of the Covenant. He would like to know if they received special training on international human rights instruments in general and the Committee’s jurisprudence in particular.

Ms. THORARENSEN (Iceland) said that one of the reasons why the emphasis had been on the European Convention on Human Rights and the International Covenant on Civil and Political Rights during the drafting of the new Constitution was that economic, social and cultural rights had traditionally not been considered enforceable, but rather as positive obligations of States, and the courts were not expected to become involved in their implementation. However, the current trend, both at the international level and in Iceland, was for those rights to be considered enforceable, thanks to a certain judicial activism. Although the right to housing was not explicitly mentioned in the Constitution, article 65 of the Constitution, which guaranteed equality, could be invoked in all kinds of specific cases; for example, it had been successfully invoked in the case mentioned in paragraph 10 of the report, concerning a blind student who had not received the necessary assistance to pursue her university studies, even though the rights of disabled people were not specifically mentioned in the Constitution. Moreover, the courts, through their decisions, could broaden the interpretation of the Constitution to cover rights not stipulated in it, and in fact the Icelandic courts had already done so. In the light of the actual decisions taken by the courts in relation to economic, social cultural rights, she did not think there was any great difference between interpreting those rights “in the light of” the provisions of the Covenant rather than “in accordance with” them.

In reply to the question on the Human Rights Centre, she said that the Centre had never been intended to have a complaints procedure: human rights violations were dealt with by the courts, to which access was relatively easy under Iceland’s comprehensive legal aid system, or by the Ombudsman, who provided a very effective mechanism for dealing with complaints about administrative procedures or decisions. Although the Ombudsman could not take binding decisions, he could instigate investigations ex officio and had recently done so to good effect in an investigation into prison conditions. In extreme cases, complaints could be taken to the European Court of Human Rights or the various treaty bodies that had a complaint mechanism.

There was no training in human rights specifically for Icelandic judges, but the general law school curriculum offered in the first year a constitutional law course which included detailed human rights segments covering all the human rights treaties. Also, separate courses in human rights offered in universities and to judges’ associations gave a general overview of all those treaties. Consequently, lawyers as well were very familiar with human rights and often invoked the various international instruments in the courts.

Racial discrimination and xenophobia were not serious problems in Iceland, but with immigration increasing, there was a growing concern that problems might develop and the authorities were fully prepared to act if they did. They had, for instance, acted swiftly to indict a young man who headed the informal “White Iceland” group for making degrading ethnic slurs, especially against Africans. He had been fined approximately 1,200 euros under a Penal Code provision that allowed imprisonment for up to two years for racial mockery or slander, a provision that had originally been enacted in order to conform to the International Convention on the Elimination of All Forms of Racial Discrimination but had thus far never been invoked. The court had decided that freedom of expression did not preclude conviction in that particular case, even though the offence had not quite amounted to incitement to racial hatred; it was hoped that the decision would send a clear signal to all and have a preventive effect. No similar provision was needed in the Penal Code regarding xenophobic associations because in such cases Iceland referred to article 74 of the Constitution, which prohibited association for unlawful purposes and allowed the banning of such groups. However, no relevant cases had occurred.

The local authorities in Iceland took very seriously their obligation to promote tolerance and to help foreigners in an increasingly mixed society. For example, an intercultural centre had recently been established by the city of Reykjavik and the surrounding towns as a municipal body that would implement their official multicultural policy of preventing prejudice and fostering inclusion. Among its services, it provided immigrants with information on their rights and with counselling and legal aid where necessary; it had been working very well so far.
Ms. GUNNSTEINSDOTTIR (Iceland) said that the Government expected that the recent Maternity, Paternity and Parental Leave Act would do much to promote gender equality, although it was not clear what impact it would have on the gender pay gap. Its application in traditionally male occupations, in particular, had been problematic at first but it was now accepted. Since 2001, men in large numbers - 80 to 90 per cent of fathers - had in fact applied for varying amounts of paternity leave and it remained to be seen how many in 2003 would take the full three-month allowance. The Government’s emphasis on flexible and part-time leave was especially attractive to men, but up to 35 per cent of women had also chosen such arrangements in 2002.

Under the Gender Equality Act, employers were required to make it easier for their employees to reconcile family life and work, and, under article 13, those with more than 25 employees had to offer specific programmes to that end. In Reykjavík, 35 private and public enterprises had started a project to help employees take advantage of flexible working hours, and the subsequent conference to assess its success had been given much publicity; the project was now continuing on an Internet home page. Encouraged by that success, many more companies were now implementing flexible hours for both men and women, and especially for their younger employees. No nationwide study had been made on the use of flexible working hours, but since the late 1990s, they had been a very popular option in government ministries.

The Government had tried for years to close the gender pay gap. The Gender Equality Act (art. 14) clearly defined equal pay as pay determined in the same manner for both men and women without discriminatory criteria. The gender statistics available were based simply on salaries by sector, without a breakdown of salaries by gender for work of equal value. Various factors accounted for the pay gap: women worked less overtime and did more part-time work; they had not been in the labour market for as long as men; education was also a factor among older women, who tended to be less skilled. The 70 per cent figure for the gap was an average for all women in the workforce. One promising development was that women were in the majority in all university faculties except engineering. The Government had started a project to encourage women to apply for leadership posts and to overcome their hesitancy in asking for higher salaries, as men routinely did. The next report would also provide information on the new job evaluation system in effect.

Ms. THORARENSSEN (Iceland) observed that a man had recently submitted a complaint to the Ombudsman of the Althing alleging that the Women’s Loan Guarantee Fund (report, para. 25) discriminated against men. The Ombudsman had ruled, however, that such affirmative action for women was not unlawful. The delegation had no information on whether the requirements of the Covenant had been taken into account in the development projects Iceland financed abroad, but relevant information would be provided in the next report.

Ms. DAVIDSDOTTIR (Iceland) said that Iceland had not yet reached the target of 0.7 per cent of GNP for ODA; the current figure was only 0.16 per cent.

Mr. MARTYNOV observed that a rich nation like Iceland should be able to do better than that.

Ms. BRAS GOMES said that she was uneasy about the assumption that women would hesitate to ask for higher wages and asked whether factors other than lower self-esteem came into play. She observed that if the statistics used to determine the extent of the wage gap between men and women were not based on the equal-pay-for-equal-work indicator, they were flawed and there was no way of knowing exactly if a gap existed, in what areas it existed or how

Iceland compared with other countries. It was easy enough for men to take paternity leave because that was a non-transferable right. The more significant question was if they took unpaid parental leave, a right that they shared with their wives.

Ms. GUNNSTEINSDOTTIR (Iceland) said that while in absolute terms very few men took parental leave, because the population was so small they represented a significant proportion of fathers. The lack of research into wage differentials was clearly a problem. By law, employers were not permitted to discriminate between men and women when they did the same jobs or work of equal value. In the late 1990s a study had found that the workers of a given employer who carried out the same job sometimes received different remuneration because they had different education levels and were not covered by the same collective agreement. It had since been made clear that in such cases, the employer was obliged to ensure equal treatment according to the provisions of the more favourable contract. It would be very difficult to carry out research within each company as employers were not obliged to inform the Government about their wage policies or the earnings of their employees.

Mr. GRISSA asked whether in families where the parents had different salaries, the parent with the lower salary might be more keen to take parental leave because of the lesser consequences of lost income. Surely, employers must be obliged to reveal the salaries they paid to their employees, if only for tax purposes. Could the Government make use of such information for its research into wage differentials? Did the wage gap exist only in the private sector, or also in the public sector, for example in the case of schoolteachers?

Ms. GUNNSTEINSDOTTIR (Iceland) said that parents on maternity or paternity leave received 80 per cent of their salaries, which meant that any difference in lost income would be only marginal. While it was true that employers were required to give information to the tax authorities, they were not under any obligation to provide a description of the work done, which would be crucial to such research. The delegation did not have specific information on the wages of schoolteachers and was not aware whether there was a gender gap. Since both female and male teachers were covered by the same collective agreement, their conditions of remuneration were supposed to be identical.

Mr. TEXIER, noting that the Government had recently adopted the Collective Redundancies Act (No. 63/2000), asked whether the Act called for negotiations or consultation with trade unions, social programmers or retraining for dismissed workers. For how long were dismissed workers entitled to unemployment benefit? How did the various bodies ensuring equality of remuneration coordinate their activities? It would be of interest to the Committee to learn whether there had been any change in the number of industrial accidents. The Icelandic Federation of Labour had apparently lodged a complaint with the ILO Committee on Freedom of Association relating to legislation enacted in 2001. Could the delegation describe the complaint and the Government’s position?
Mr. KERDOUN, noting that according to the report women’s earnings represented 54.2% of men’s, asked whether in the Government’s view it would be possible to reduce the wage gap in any significant manner. Would the State party be able to quantify its efforts to reduce differentials and to describe the results obtained? According to the delegation, there was no minimum wage, and remuneration was negotiated in collective bargaining. What factors were taken into consideration when wages were set by the Government or by collective agreement? The delegation should inform the Committee how many people were considered to be poor, in both relative and absolute terms. Were people who had never held a job entitled to receive unemployment benefit? If not, were other forms of social assistance available for them? For a foreign worker to obtain a work permit, Icelandic legislation reportedly required him or her to have a valid residence permit. What were the requirements for obtaining a residence permit?

Mr. CEASUS said that, under the Constitution, people had the right to choose work as they saw fit. In many countries, certain forms of activity, in particular various types of self-employment, were restricted by law to protect the public interest. In some cases, those restrictions were imposed in a discriminatory or abusive manner, for example when a Government prohibited foreign doctors from practising because it did not recognize a foreign diploma. Were such restrictions applied in Iceland? There had reportedly been a complaint filed by a foreigner who had been prohibited from working as a fisherman.

According to the report, health insurance became effective for nationals of countries outside the European Economic Area only after six months’ residence. What health coverage was available during the first six-month period? What kind of health insurance was available to migrant workers?

Ms. BRAS GOMES said that Iceland had a highly developed social security system in terms of both coverage and benefits. Did the Government foresee any problems in ensuring the long-term financial sustainability of the system? According to the report, unemployment benefit could be drawn for up to five years. What happened after the five years had elapsed? Did the social security system cover all self-employed persons or just specific groups?

Mr. MARTYNOV, noting that most industrial and economic activity was concentrated in Reykjavik, requested unemployment statistics for other regions. Had the Government taken any steps to ensure that the private sector employed disabled persons? Why had allocations for vocational training fallen by about a third between 1998 and 2000, and which categories of workers in the public sector did not have the right to strike? What obstacles had prevented Iceland from ratifying the ILO Labour Inspection Convention (No. 81), the ILO Prevention of Major Industrial Accidents Convention (No. 174), the ILO Social Policy (Basic Aims and Standards) Convention (No. 117) and the ILO Equality of Treatment (Social Security) Convention (No. 118), and a number of similar European instruments, including the Additional Protocols to the European Social Charter and the revised European Social Charter?

In its concluding observations issued in 1999, the Committee had identified several categories that were most affected by poverty, including single parents, parents with children, farmers, students and household workers. The delegation should give more information on the dynamics of poverty reduction among those specific groups. Did the Government intend to act on the recommendation issued by the Committee in its concluding observations to draw up an overall plan to implement the Covenant?

Mr. GRISSA asked why the gender gap in remuneration had narrowed in an irregular fashion over the past 20 years, and pointed out the need, when assessing differentials, to compare the salaries of people with similar qualifications.

The meeting rose at 6 p.m.