



# International Covenant on Civil and Political Rights

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## Human Rights Committee 105th session

### Summary record of the first part (public)\* of the 2895th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 10 July 2012, at 10 a.m.

*Chairperson:* Ms. Majodina

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Consideration of reports submitted by States parties under article 40 of the Covenant  
(*continued*)

*Fifth periodic report of Iceland (continued)*

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\* No summary record was prepared for the second part (closed) of the meeting.

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*The meeting was called to order at 10 a.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant**  
(agenda item 7) (*continued*)

*Fifth periodic report of Iceland* (continued) (CCPR/C/ISL/5; CCPR/C/ISL/Q/5 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Iceland took places at the Committee table.*
2. **The Chairperson** invited the delegation of Iceland to continue answering the questions posed by Committee members at the previous meeting.
3. **Ms. Hjaltadóttir** (Iceland) said that, the previous afternoon, some Committee members had indicated that it was difficult to follow her delegation's answers, which did not follow the order of the list of issues. After the meeting, the delegation had consulted the Committee secretariat, which had told it that conference services had edited the document, changing the numbering of the paragraphs without informing the delegation. Replying to a question raised the day before, she said that Iceland was giving consideration to adding discrimination against transgender persons to the offences set out in article 233 (a) of the General Penal Code.
4. **Ms. Bjarnadóttir** (Iceland) recalled that, in its decision on case No. 125/2000, the Supreme Court had invoked not just article 26 of the Covenant but also article 9 of the International Covenant on Economic, Social and Cultural Rights, the European Social Charter, and International Labour Organization (ILO) conventions. It had determined that the reduction in benefits for disabled persons breached article 76 of the Constitution.
5. In 2009, the Parliamentary Ombudsman had issued an opinion on the status of transgender persons concluding that administrative practice did not conform to the Constitution or to the international human rights instruments to which Iceland was a party; legislation on the rights of transgender persons had been adopted as a result.
6. As regards hate speech, the Ministry of the Interior had recently requested the Icelandic Human Rights Centre to review the national legislative framework in the light of international jurisprudence and best practices. The competent authorities would use the results of that study to strengthen the relevant laws.
7. There was nothing in domestic law requiring land to be granted without remuneration for places of worship but that was what had occurred in Reykjavik. Muslims had been authorized by the municipality of Reykjavik to build a mosque and an Islamic cultural centre. The length of the procedure was due to the city's changing politics: it had had four mayors in four years.
8. As for the implementation of decisions taken by the Gender Equality Complaints Committee, her delegation of Iceland would reply in writing at a later date. There were no specific sanctions for non-compliance with the new provisions of the Private Limited Companies Act No. 138/1994 designed to increase the numbers of women on company boards, but there were general sanctions that applied to all provisions of the law. As for the indicators used to assess the gender pay gap, the objective was to harmonize the criteria applied. Iceland had only one shelter for women, in Reykjavik. There had been one other; but because, anonymity had been difficult to maintain outside the capital, it had been seldom used and had had to close. According to the governmental organizations, immigrant women who suffered domestic violence were properly informed of their rights; to what extent that encouraged them to lodge complaints was difficult to say. There was a special shelter for female trafficking victims; the Government did not have statistics on the number of women it took in. As an example, five women, three of them foreign, had taken shelter

there in the previous week. Only one had requested a permanent residence permit, which she had received. Her delegation would respond later to the request for statistics on prostitution and the ban on striptease shows.

9. Paragraph 102 of her country's report did indeed contain an error. A court could not order a suspect to be held in custody, when it was clear that the suspected offence would under the circumstances be punishable only by a fine or a suspended prison sentence. Any person taken into custody had access to the services of a doctor and a lawyer at any moment during the proceedings. He or she was also permitted to consult a priest or another representative of a registered religious organization. As for voting rights, the criteria established in article 4 of the Electoral Code applied to the right to stand for election, not the right to vote.

10. Many amendments had been made to the Foreign Nationals Act in 2010; they established a subsidiary protection scheme, more precise rules governing the granting of residence permits for humanitarian reasons, and protection for unaccompanied minors seeking asylum. Appeals by asylum seekers had suspensive effect. Asylum seekers whose cases were heard by the Directorate of Immigration had the right to be represented free of charge by a lawyer, for 15 hours in first instance and 5 hours in the event of an appeal. The intergovernmental group handling the matter would be putting forward to the Ministry of the Interior amendments to the Act that would favour a humanitarian approach. Foreign nationals needing emergency protection could obtain a residence permit on humanitarian grounds for one year. The permit could be renewed, and permit holders had the right to work. After four years they could request a permanent residence permit. The number of applications for asylum had more than doubled between 2009 and 2011, and the number of requests approved had risen from 8 to 14 during the same period.

11. The Ministry of the Interior had proposed an amendment to the Judiciary Act to temporarily increase the number of district court judges by five, and Supreme Court judges by three, so as to keep the judicial system working efficiently despite the increased number of criminal and civil cases resulting from the collapse of the banking system. Parliament had passed the bill in 2011. In May 2010, it had adopted the bill amending Judiciary Act No. 15/1998 that was mentioned in paragraphs 130 and 131 of the report.

12. The Ministry of the Interior had submitted to Parliament a bill amending the law on religious organizations so that non-religious organizations that fulfilled certain criteria could receive the same funding. The guide to the national mandatory education curriculum, adopted in 2011, authorized schools to excuse students who so requested from courses with religious content. The division of property between spouses in the event of divorce was governed by the Marriage Act, No. 31/1993, which was inspired by the Nordic model.

13. The Committee's concluding observations on the third and fourth periodic reports of Iceland had been translated into Icelandic and posted on the Ministry of the Interior website. The text of the fifth report was also on the site. The Ministry had held several seminars as part of the process of drafting a future national human rights plan.

14. **The Chairperson** thanked the delegation and invited Committee members to raise additional questions.

15. **Mr. Neuman**, alluding to the State party's compliance with the principle of non-refoulement in the light of national security considerations, said that article 45 of the Foreign Nationals Act, No. 96/2002, seemed to suggest that the exceptions allowed in the Convention relating to the Status of Refugees, which applied in a general manner to asylum requests, were also applicable to subsidiary protection, meaning that there was no absolute protection against violations of articles 6 and 7. If that was so, and even if article 45 of the Act was not applied in that manner, the law should be amended as part of the forthcoming reform. Exceptions to the suspensive effect of appeals lodged by asylum seekers might also

raise concerns. In a large proportion of cases, Iceland left the decision on requests for asylum to another State, to which it sent asylum seekers, invoking the “Dublin” rule. Ever since the European Court of Human Rights had found fault with the asylum procedure in Greece, under which asylum seekers were sent home in application of the “Dublin” procedure, Europe had seemed to be aware that the asylum situation had grown less simple than when that sort of rule had been drawn up. Not allowing appeals to have suspensive effect could create a problem even in cases which on first glance looked simple. There might be good reasons for concluding that some countries applying the “Dublin” system — Greece was not the only one — were not safe. The lack of suspensive effect might then cause many problems. The free legal aid given to people whose asylum requests were being heard might not be enough, given the complexity of certain cases. He wondered whether judicial review of rejected requests for asylum or subsidiary protection was limited to procedural issues or also addressed the merits. A reform of the asylum procedure would be desirable.

16. **Mr. Iwasawa** requested more information on the Icelandic Human Rights Centre, which, according to the delegation, performed some of the functions of a national human rights institution while being a non-governmental organization. He asked what its functions were.

17. With regard to question No. 19 on the list of issues, he asked whether a temporary permit could be granted on a discretionary basis by the Directorate of Immigration and whether persons applying for permits could appeal to the courts. He noted with satisfaction that the State party planned to make use of the recommendations by Parliament to the Ministry of the Interior in drawing up a new foreign nationals act that would lay greater emphasis on humanitarian considerations.

18. On the circulation of information about the Covenant, he inquired what media coverage the Committee’s Views on *Haraldsson and Sveinsson v. Iceland*, adopted on 24 October 2007, had been given. He asked whether judges and lawyers were given special training in international human rights instruments.

19. **Mr. Rivas Posada** asked why the steps taken by the State party to increase the number of judges in the district courts and the Supreme Court so as to cope with the growing number of criminal cases and civil suits resulting from the financial crisis and the collapse of the banking system were temporary. He welcomed the adoption and entry into force of amendments to the Judiciary Act, No. 15/1998, in particular the new procedure for nominating judges, which should help to strengthen judicial independence.

20. He understood the State party’s interest in limiting the scope for appeal to a higher court by persons convicted of minor offences, so as to avoid overloading the judicial system. However, that meant that the State party was not fully applying the provisions of the Covenant; article 14, paragraph 5, allowed for no exception to the right of all persons found guilty of an offence to have their conviction and sentence reviewed by a higher court.

21. He asked what criteria the State party applied to grant the same funding to religious organizations as to the Evangelical Lutheran Church, and how it was ensured that non-religious organizations received the same treatment. Lastly, regarding the division of property between spouses in the case of divorce, he asked what the “Nordic model” was.

22. **Mr. Bouzid** noted with interest that there was no army in Iceland, and no military courts.

23. **Mr. Fathalla** asked who had the authority to exempt a student from religious instruction and whether all requests for exemption were assessed using the same criteria. He also wondered whether, in the absence of specific criteria, the fact of practising a

religion different from the one being taught was deemed sufficient reason to grant an exemption.

*The meeting was suspended at 11 a.m. and resumed at 11.25 a.m.*

24. **Ms. Hjaltadóttir** (Iceland), responding to members' questions, confirmed that the Views adopted by the Committee on communication No. 1306/2004 had attracted extensive media coverage in Iceland. There were plans to give judges more training in several areas. The number of judges had been increased temporarily so as to cope with the cases arising from the banking crisis of 2008.

25. **Ms. Bjarnadóttir** (Iceland) explained that the Icelandic Human Rights Centre carried out some of the functions of an independent national human rights institution answering to the Paris Principles: it prepared parallel reports for all the United Nations human rights bodies, and analysed the conduct of the Government with a critical eye. The Government and administration attached great importance to the Centre's advice and experience with strengthening the human rights protection system. Iceland was contemplating accession to the Convention on the Rights of Persons with Disabilities, which required the establishment of an independent mechanism to monitor implementation; the Ministry of Welfare had recently published a report on the best means of going forward.

26. Replying to questions about the expulsion of foreigners, she observed that the law had evolved considerably, largely as a result of the recommendations made by the Committee during its consideration of the fourth periodic report. The Government awaited with interest the Committee's next views and recommendations for improving the asylum procedure. As for the principle of non-refoulement, it was an essential element of the current law. It was true that Iceland had sent three asylum seekers back to Greece. After the decision of the European Court of Human Rights finding fault with the asylum procedure there, Iceland following the example of Norway, had stopped returning asylum seekers to Greece. It was Iceland's way to draw inspiration from other Nordic countries with greater administrative resources. With regard to legal aid for asylum seekers, the Government covered the cost of 15 hours in first instance and 5 hours on appeal, and a margin of discretion was possible in cases where the procedure took longer. As for appeals against denial of a residence permit, it was true that they addressed procedural, not substantive matters. However, when a decision was overturned, the Directorate of Immigration was obliged to review the entire dossier. In reply to the question about the increase in the number of judges (No. 20 of the list of issues) she said that the reform of the Judiciary Act had undeniably strengthened the independence of the judiciary.

27. As for freedom of conscience and religion, it was true that schools weighed only the reasons given by parents for not wanting their children to attend mandatory religion courses; no request for exemption had been refused. The Ministry was nevertheless drafting guidelines so as to avoid possible differences of approach.

28. As for the division of property in the event of divorce, property held in common was almost always split equally. Rare exceptions were made for couples without children in cases where the marriage had lasted less than two years, and there was a large difference, between the fortunes of the spouses.

29. Replying to the question about limitations on the right to appeal, she drew attention to paragraphs 56 and 57 of the fifth periodic report, which mentioned a finding by the European Court of Human Rights, that inability to appeal against the mild punishment they had been dealt did not constitute a violation of the plaintiffs' rights under article 2 of Protocol No. 7 to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Her Government would of course take note of any recommendation from the Committee on that subject.

30. **The Chairperson** thanked the Icelandic delegation for its replies. She asked Committee members to raise further questions if they so wished.

31. **Mr. Flinterman** asked for more detail on the reformed procedure for nominating judges, described in paragraphs 130 and 131 of the report; he was astonished that the Minister of Justice still retained the prerogative not to accept the choice of the selection committee.

32. **Ms. Hjaltadóttir** (Iceland) said that the Minister of Justice was obliged to follow the recommendations of the selection committee unless authorized by Parliament to do otherwise. To date, that circumstance had never arisen.

33. **The Chairperson** invited the head of the delegation of Iceland to make a final statement.

34. **Ms. Hjaltadóttir** (Iceland) thanked the Committee for the very fruitful dialogue that had just taken place. The recommendations of treaty bodies had a direct impact on human rights policy in Iceland, and for the first time in the history of the country, the Government had undertaken, in its statement of general policy, to adopt an action plan for human rights (which would be submitted to Parliament in October 2012), and to incorporate all human rights instruments into domestic law. There had been progress: the adoption of a law on the rights of transgender people, in June 2012; the ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), and the resulting amendment to the Penal Code; provisions against hate speech in the Media Act; the joint scheme by the ministries of the interior, welfare and education to raise awareness of violence against children; the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings, in February 2012; the thorough revision of the provisions of the Foreign Nationals Act dealing with asylum seekers, in 2010; and a new bill giving non-religious organizations the same registration and funding rights as religious ones.

35. Her Government was nonetheless aware that significant progress remained to be made in a number of areas, as the Committee had pointed out. Some changes, such as the recasting of the asylum procedure, had already been scheduled. Iceland planned to redouble its efforts to combat violence against women and children, reduce the pay gap between men and women, combat trafficking in human beings, reduce the time it took to handle asylum requests, and better apply the law so that all would enjoy the same rights and the same protection. Its tools would be awareness-raising, education and punishment. In the latter case, the Ministry of the Interior would strive to tighten the links between each stage of the process from initial investigation to incarceration, with a view to improving the implementation of laws and human rights protections. The lack of recent statistics in all areas would also be remedied. The Government intended to put the lessons learned from its dialogue with the Committee to good use, and would be eager to inform it of the results obtained.

36. **The Chairperson** thanked the delegation for the constructive exchanges and noted that Iceland had made significant progress since the consideration of its previous periodic report. She applauded efforts to make gender equality a reality. The full implementation of the Gender Equality Act of 2008, and a consequent improvement in the situation of women, not only in law but also in practice, would be welcome. The pay gap between men and women in Iceland was the narrowest in the world; even so, there was room for improvement. As for the protection of children's rights, legislation had been significantly amended but the sexual abuse of children still went unpunished too often.

37. It was regrettable that the Covenant was not yet fully incorporated into domestic law, despite numerous recommendations from the Committee to that effect. The Committee also felt that Iceland should again ponder the validity of its reservations to article 10,

paragraph 2 (b), article 14, paragraph 7, and article 20, paragraph 1, of the Covenant. In particular, the fact that there were no minors now in custody in Iceland did not necessarily justify retaining the reservation to article 10, paragraph 2 (b).

38. The Committee hoped that Iceland would adopt comprehensive equal rights legislation, which would, inter alia, prohibit hate speech. Laws against domestic violence had been adopted but with limited effect: victims too rarely lodged complaints, and complaints were not diligently investigated. The lack of a precise definition of torture in Icelandic law was also a matter of concern that had been raised in the past. In addition, the asylum procedure needed to be improved.

39. The Committee had been pleased to engage in dialogue with the delegation and hoped that the consideration of the next periodic report of Iceland would bring to light fresh progress in the protection of human rights.

40. *The delegation of Iceland withdrew.*

*The first part (public) of the meeting rose at 11.55 a.m.*