

17 October 2011

Screening report

Iceland

Chapter 19 – Social policy and employment

Date of screening meetings:

Explanatory meeting: 7–8 February 2011

Bilateral meeting: 15–16 March 2011

I. CHAPTER CONTENT

On the basis of Article 153 of the Treaty on the Functioning of the European Union (TFEU), the Union supports and complements the activities of the Member States in the area of social policy.

The *acquis* in the social field includes minimum standards in areas such as labour law, equal treatment of women and men in employment and social security, as well as health and safety at work. Specific binding rules have also been developed with respect to non-discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (Article 19 of TFEU).

The European Social Fund (ESF) is the main financial tool through which the EU supports the implementation of its Employment Strategy and contributes to social inclusion efforts (implementation rules are covered under Chapter 22 “Regional policy and coordination of structural instruments” which deals with all structural instruments).

The Member States participate in EU policy processes in the areas of employment policy, social inclusion and social protection. The social partners from the Member States participate in social dialogue at the European level.

In the field of disability, the EU has adopted a strategy aimed at mainstreaming disability issues into relevant Union policies and at acting to enhance the integration of people with disabilities.

International agreements related to employment, labour and social issues, such as the relevant ILO Conventions or the UN Convention on the Rights of People with disabilities, need to be taken into consideration.

In relation to chapter 23 “Judiciary and Fundamental Rights”, it should be noted that trade union rights are covered by chapter 19 only. As regards anti-discrimination and equal opportunities, these issues are essentially covered by chapter 19 with a specific focus on employment aspects, whereas chapter 23 covers cultural and minority rights as well as violence against women.

Substantial parts of the *acquis* in this chapter are covered by the EEA Agreement, notably through its Annex XVIII.

II. COUNTRY ALIGNMENT AND IMPLEMENTATION CAPACITY

This part summarises both the information provided by Iceland and the discussion at the screening meeting. Iceland indicated that it can accept the *acquis* regarding social policy and employment and it does not expect any difficulties to implement the *acquis* by the date of accession.

II.a. Labour law

As a member of the EEA, Iceland has implemented the *acquis* in the area of **labour law**, with the exception of the *acquis* on working conditions of mobile workers engaged in interoperable cross-border traffic in the railway sector (not transposed as Iceland considers this to be a case of ‘geographical impossibility’), and of the *acquis* on temporary agency work (as this is not yet part of the EEA Agreement). Iceland has opted to transpose the *acquis* without a codified body of labour legislation. Collective agreements between social partners play an important role in Iceland’s industrial relations system.

Legislation on posting of workers has been declared in breach of EU law in a recent judgement of the EFTA Court (Case E-12/10 ESA). The case concerned the requirements that Iceland as an EEA State is allowed to impose as regards the employment conditions of workers posted on their territory. Furthermore, a reasoned opinion has been sent to Iceland by the EFTA Surveillance Authority concerning its legislation on annual leave. An amendment to the law on annual leave was adopted in September 2011 in order to address the concerns raised.

As regards administrative capacity, the main administrative body is the Ministry of Welfare, and its Department of Social and Labour Market Affairs. The Ministry of Interior is responsible for implementing the working time *acquis* on seafarers and civil aviation. There is no Labour Inspectorate competent for labour law. Collective disputes are settled mainly by the State Mediator and/or social partners; individual disputes are settled by the Labour Court or an ordinary court. Iceland indicated that administrative capacity is sufficient.

II.b. Health and safety at work

The Act on the working environment and health and safety in the workplace, which applies to both private and public sectors, aims to implement the central elements of the *acquis* in the area of **health and safety at work**. As regards specific sectors, Icelandic legislation provides for three separate sets of rules and regulations on health and safety depending on whether activities are carried out on land, at sea or in the air.

The Occupational Health and Safety Administration has in place a strategy for years 2009–2012. Also a special occupational safety campaign is mounted every year in connection with the European Week for Safety and Health at Work. At the workplace, it is the employer who has the overall responsibility for health and safety. The employer shall inform the employees of all dangers of accidents and health hazards which may be associated with their work.

Responsibility for control and supervision of legislation on health and safety at work rests with the Ministry of Welfare, the Occupational Health and Safety Administration, as regards activities carried out on land. The administration employs 61 staff, including 27 inspectors. The Ministry of Interior (the Icelandic Civil Aviation Administration and the Icelandic Maritime Administration) monitors and enforces the legislation regarding air and sea.

II.c. Social dialogue

Social dialogue in Iceland is regulated by the 1938 Trade Unions and Industrial Disputes Act with subsequent amendments. Industrial relations are marked by the very strong position of trade unions: About 80% of the workforce is unionised. There are no restrictions on the right of employees to organise, and trade unions have no obligation to register with government authorities.

The predominant trade union is the Icelandic Confederation of Labour, embracing 64 trade unions with a total of 112 000 members. The Federation of State and Municipal Employees and the Alliance of Graduate Civil Servants represent employees of the public sector. Some other trade unions outside the umbrella organisations bring together teachers, airline pilots, nurses, bank employees and journalists. On the employers' side, the Confederation of Icelandic Employers has eight member associations and includes around 2 000 companies employing about 50 % of the workers.

The social partners regulate in general pay and working conditions in Iceland, for example pay, working time, length of holidays, etc. The Icelandic government is of the opinion that it

is solely the social partners' role to agree on wages and terms in free collective bargaining without interference by the State. Contracts made between an individual employee and employer on poorer working conditions than those specified in a general collective agreement shall be void. Disputes in collective bargaining are referred to a special Mediation and Conciliation Officer.

Emphasis is put on tripartite social dialogue. The Minister of Welfare has regular consultation meetings with the social partners. The social partners have also their representatives in different committees related to the EU accession process.

II.d. Employment policy

Iceland's labour market was traditionally characterised by a high participation rate (82%) with very low unemployment. However, following the financial crisis in autumn 2008 the country experienced a steep increase in unemployment. According to the Labour Force Survey, the unemployment rate rose from 2.3% in the first quarter of 2008 to 7.8% in the first quarter of 2011. There has been a significant outflow of migrants following the crisis. It is predicted that the unemployment rate will decrease in 2011, but will remain at around 7–8%. The increase in unemployment affects men more than women as the highest increase is to be found in the construction sector. At the same time, the rise in unemployment has been more pronounced in the Reykjavik capital area. Both youth and long-term unemployment have risen to unprecedented levels for Iceland, prompting the introduction of targeted labour market measures.

Employment policy reforms only became necessary recently, following the effects of the financial crisis. The employment policy is currently being transformed into a system of active labour market measures including activating and training of unemployed people. This is the responsibility of the Directorate of Labour on behalf of the Ministry of Welfare. It has currently 164 staff. The Prime Minister's Office has appointed a committee with representatives from the Ministries, the Directorate of Labour and the social partners in order to prepare a national strategy for employment. A report of the committee is foreseen to be available in May 2012. Also a specific *Iceland 2020* policy initiative foresees to reduce the long-term unemployment rate to under 3% by 2020; to reduce the percentage of people aged between 20–66 and who have not received any formal secondary education from 30% to 10% by 2020; to put a strong emphasis on vocational education as well as on job-training. Currently, there are nine Lifelong Learning Centres in Iceland.

The share of *undeclared work* is estimated at 5–8% of Iceland's total tax revenues. The key problematic sectors seem to be construction, restaurants and tourism, retail and any personal services. There are quite a number of public institutions fighting undeclared work. However, Iceland indicated that there is limited inter-institutional cooperation in place. An agreement on working place identification cards was signed by the social partners in June 2010 in view of reducing undeclared work.

II.e. European Social Fund (ESF)

In terms of preparations for the **European Social Fund (ESF)**, the *Iceland 2020* Initiative serves as a starting point for underpinning the future ESF with the social and employment policy context.

Overall, more than 20 staff work directly on the promotion of various EU programmes. Iceland indicated that collaboration between ministries is considerable and takes place both

on an ad hoc and permanent basis. It also indicated that it does not envisage at this stage to create new institutions, as new responsibilities could be designated to existing ones.

II.f. Social inclusion

Iceland stated that it is taking appropriate **social inclusion** measures for the vulnerable groups in society, based on the Nordic welfare approach. Iceland indicated that statistical data on poverty and social exclusion are comprehensive. There is no official national definition of an absolute and/or relative poverty line. According to EU-SILC, at risk-of-poverty rate (10.2 % in 2009) is among the lowest in the EU. However, the social impact of the economic and social crisis is still very visible. Iceland is addressing this through an overall monitoring approach “Welfare Watch” and through mitigating measures targeting indebted households. Iceland also took part in the 2010 European Year for combating poverty and social exclusion.

As regards *people with disabilities*, the Icelandic constitution gives citizens with disabilities the same rights and protection as other citizens and is supposed to protect them from any kind of discrimination. Iceland has signed the UN Convention on the Rights of Persons with Disabilities and the ratification process is foreseen to be concluded in winter 2011–2012. The Minister of Welfare is responsible for disability issues. From 1 January 2011 the municipalities are responsible for the organisation and implementation of services to people with disabilities. Iceland stated that efforts facilitating the entry of people with disabilities on the labour market have produced considerable results, especially under the form of “Supported Employment”. As regards institutional care, it is now almost a thing of the past; emphasis is put on independent living in municipalities. A training programme on independent living is foreseen in 2011.

II.g. Social protection

The share of expenditure on **social protection** benefits in Iceland’s GDP is lower than the average in the EU-27 (in 2007 21.3% and 25.2% respectively). This is partly due to low public pension expenditure and the large role of occupational pension provision (obligatory for all people active on the labour market) and extensive use of income-testing of benefits.

Iceland indicated that there are no current problems in financing the pension system.

Preventive health care for pregnant women and children, as well as school health care, is free of charge. Hospital stays are also free of charge, as well as GP consultations for children under 18. Private health care insurance hardly exists in Iceland and health services provided by employers are very limited. As regards elderly, emphasis is increasingly put on home care rather than nursing home services to meet their expanding needs.

II.h. Anti-discrimination

The principle of equality is enshrined in the Icelandic constitution. However, the two **anti-discrimination** directives 2000/43/EC and 2000/78/EC remain to be transposed. Icelandic legislation does not provide for any detailed protection against discrimination on grounds of racial or ethnic origin, religion or belief, age, disability or sexual orientation on the labour market, as required by the *acquis*, but does provide for some protection in certain other fields. Outside employment, there is no specific legislation prohibiting discrimination on grounds of racial or ethnic origin. However, preparation of a law aligning with the anti-discrimination *acquis* is ongoing. It should be submitted to the Parliament in spring 2012. Same-sex marriages were legalised in June 2010.

As regards administrative capacity, there is no institution especially responsible for combating discrimination on grounds of racial or ethnic origin, religion or belief, age, disability or sexual orientation, although the Ministry of Welfare is responsible for equality matters in a broad sense. This is foreseen to be remedied by the law above.

II.i. Equal opportunities

The Act on equal status and equal rights of women and men, or **Gender Equality Act**, was adopted in 2008. It prohibits discrimination of all types, direct or indirect, on grounds of gender in a number of sectors: labour market, pay, vocational training, reconciliation of work and family life and education. It contains definitions of direct and indirect discrimination which are crucial for the meaningful implementation of legislation. The Act on maternity/paternity leave and parental leave provides that both women and men have an equal, non-transferable right to take three months' leave in connection with the birth, first-time adoption or fostering of a child, irrespective of whether they work in the private or the public sector, or are self-employed. Parental leave gives additional three months which can be shared by either parent. As regards both general and occupational pension schemes, there are no differences between men and women in terms of retirement age or other aspects of pension rights. However, Iceland does not have specific provisions on gender equality in social security in general (as required by Directive 79/7) and as regards access to goods and services (as required by Directive 2004/113).

As regards administrative capacity, the Ministry of Welfare and especially the Centre for Gender Equality are responsible for implementation of equal opportunities in Iceland. Each Ministry is also requested to appoint a gender equality expert to mainstream gender equality within the sphere of the given Ministry. Local authorities are requested to appoint gender equality committees that provide local governments with advice.

Currently, there is an equal number of women and men in the Icelandic government with a total of twelve ministers; the Prime Minister is a woman.

III. ASSESSMENT OF THE DEGREE OF ALIGNMENT AND IMPLEMENTING CAPACITY

Overall, Iceland has reached a high level of alignment in the field of social policy and employment and already applies a substantial part of the *acquis* in this area according to Annex XVIII of the EEA Agreement. Social dialogue is very well established, and Iceland is well prepared for participation in the open method of coordination on social protection and social inclusion, provided its administrative capacity is strengthened in these areas. Relevant administrative structures are in place. However, Iceland will need to align with the anti-discrimination *acquis* and to ensure preparations for participation in the European Social Fund. Additional efforts are also necessary in the field of employment policy, particularly as regards strengthening policy formulation and implementation, as well as increasing administrative capacity.

III.a. Labour law

As a member of the EEA, Iceland has implemented substantial parts of the *acquis* in the area of labour law. Further harmonisation is needed as regards the *acquis* on working conditions. Furthermore, Iceland will need to ensure full conformity with the *acquis* on some aspects of the *acquis* already implemented through the EEA Agreement. Sufficient administrative capacity is in place.

III.b. Health and safety at work

As a member of the EEA, Iceland has implemented substantial parts of the *acquis* in the area of health and safety at work. The legislation, as well as monitoring and enforcement, is divided into three specific subsets regarding land, air and sea.

The preventive approach, an essential element of health and safety at work, is effective and working well in practice. The system of control and enforcement of health and safety legislation is well developed. The number of labour inspectors dealing with health and safety matters is sufficient. The national legislation guarantees the independence and impartiality of labour inspectors and lays down procedures, penalties and sanctions for breaches of health and safety legislation, while also providing for accident reporting and investigation procedures.

III.c. Social dialogue

Iceland has a well established tradition of a functioning social dialogue. The Icelandic labour market is governed mainly by collective agreements. As regards tripartite social dialogue, there is a very well developed mechanism for consultation of social partners, albeit without a formal institution. Social partners have influence over the decision-making process as well as policy development. The bipartite social dialogue is also functioning very well.

III.d. Employment policy

As Iceland traditionally did not apply active labour market measures, there is a need to strengthen policies and capacity in this area. Iceland so far has not developed either a comprehensive strategy or an Action Plan on employment policy.

III.e. European Social Fund (ESF)

Iceland will need to define its social and employment policy objectives in the preparation for the European Social Fund (ESF). There is a need for a comprehensive framework of policy formulation for the future ESF which is at an early stage. The institutional framework for the management of the ESF along with administrative capacities and structures has not either yet been addressed.

III.f. Social inclusion

As regards the preparation for full participation in the open method of coordination on social inclusion, Iceland is well prepared. Statistical data on poverty and social exclusion are comprehensive. Iceland pursues policies for an egalitarian and inclusive society which are still to be translated into a coherent framework. A close monitoring and evaluation of the social situation of single parent families, low income elderly, children and social assistance recipients is necessary. The aim would be to assess the impact of the economic crisis on those groups, also in view of the reduced public expenditure.

Policies regarding people with disabilities are aligned with those of the EU.

III.g. Social protection

Iceland has managed to ensure the quality of social protection services, despite an overall lower share of expenditure than in the EU and despite the continued difficult economic background. Overall, expenditures on social welfare were cut less than other sectors of public

expenditure. A relatively high effective retirement age helps to maintain adequacy and sustainability of the pension system. The health care system achieves good results.

III.h. Anti-discrimination

The Icelandic legislation is not in line with the *acquis* in this area. It does not provide for any detailed protection against discrimination on grounds of racial or ethnic origin, religion or belief, age, disability or sexual orientation on the labour market, as required by the *acquis*, but for some protection in certain fields. Outside employment, there is no specific legislation prohibiting discrimination on grounds of racial or ethnic origin. There is neither an institution especially responsible for combating discrimination on grounds of racial or ethnic origin, religion or belief, age, disability or sexual orientation, although the Ministry of Welfare is responsible for equality matters in a broad sense. However, preparation of a law aligning with the anti-discrimination *acquis* is ongoing. It will be submitted to the Parliament in spring 2012.

III.i. Equal opportunities

Legislation concerning equal opportunities is largely in line with the *acquis*. Gender mainstreaming is a well established practice in Iceland. However, two Directives on gender equality in social security (Directive 79/7/EEC) and on access to goods and services (Directive 2004/113/EEC) remain to be transposed.