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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development****Report of the Independent Expert on the effects of foreign  
debt and other related international financial obligations of  
States on the full enjoyment of all human rights, particularly  
economic, social and cultural rights, Juan Pablo Bohoslavsky****Addendum****Mission to Iceland (8 – 15 December 2014) \* \*\****Summary*

The present report presents the main findings from the visit of the Independent Expert to Iceland from 8 to 15 December 2014. It assesses to what extent Iceland fulfilled its obligations to secure economic, social and cultural rights in the aftermath of its recent banking crisis. While Iceland managed the crisis better than many other countries and responded overwhelmingly in compliance with its international obligations, the Independent Expert identifies certain gaps that should be addressed. He recommends to strengthen further the legal and institutional framework to prevent repetition of a similar crisis and to pay attention to certain vulnerable groups, in particular highly indebted individuals; tenants living in rented homes; immigrants; and children living in single parent households. The report identifies several good practices on how States facing a financial crisis can prevent negative human rights impacts in the context of economic adjustment programmes. The Independent Expert concludes that international organisations and other countries can learn from the particular path chosen in Iceland which included protecting its core social welfare system, efforts to ensure citizens participation in the decision making process, and endeavours to establish political, administrative and judicial accountability.

\* Late submission.

\*\* The summary is being circulated in all official languages. The report itself, contained in the annex to the summary, is being circulated in the language of submission only.

## Annex

*[English only]*

**Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, on his mission to Iceland**

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## I. Introduction

1. From 8 to 15 December 2014, the Independent Expert conducted an official visit to Iceland. The purpose of the visit was twofold: On the one hand the Independent Expert wanted to assess to what extent the Republic of Iceland fulfilled its obligations to secure economic, social and cultural rights in the aftermath of its financial banking crisis. On the other hand the visit aimed at identifying good practices on how Governments can prevent negative human rights impacts in the context of financial crisis and economic adjustment programmes, a topic which is one of the thematic priorities of the Independent Expert (see A/69/273).

2. During his visit to Iceland the Independent Expert benefitted from discussions with Government officials from the ministries of Finance and Economic Affairs, Welfare, Interior, Education and Foreign Affairs. His programme included meetings with the Directorates of Labour and Health, the Central Bank of Iceland, the Financial Supervisory Authority, the Office of the Special Prosecutor and the President of the Supreme Court, Members of Parliament, including the Parliamentary Review Committee which was entrusted to follow-up on the report of the Special Investigation Commission the Parliament had set up to study the causes of the banking crisis, the Parliamentary Ombudsman, the Debtor's Ombudsman and the Ombudsman for Children, the Icelandic Association of Local Authorities, the Housing Financing Fund and Welfare Watch. He also met the President of the Icelandic Confederation of Labour and the Director of the Confederation of Icelandic Employers, current and former representatives of the banking industry and their lawyers and members of the delegation of the International Monetary Fund that visited Iceland during the same week. The programme included a visit to the neighbourhood of Breiðholt which allowed the Independent Expert to better understand certain challenges the Icelandic society is facing and the important work citizens and local authorities perform at community level. In addition, he met with a broad range of civil society organisations and academics.

3. The Independent Expert would like to thank the Government of Iceland for its invitation, its full cooperation and the open and constructive dialogue. He would like to express his gratitude to all who took time to meet him and shared their information and thoughts with him. In addition he is grateful for the support provided by the Icelandic Human Rights Centre, the Institute for Human Rights at the University of Iceland, Unicef and the United Nations Association of Iceland during the visit.

## II. Framework for analysis: financial crisis and human rights

4. Policy responses to financial crises raise important concerns regarding the protection of economic, social and cultural rights, because they are often incompatible with the obligation of States to take steps for their progressive realization and to avoid deliberate retrogressive measures, in particular those that are incompatible with the core obligations of each right and the duty of States to use all available resources in an effort to satisfy, as a matter of priority, these minimum obligations (E/2013/82, A/HRC/17/34, paras. 11-24). The Committee on Economic Social and Cultural Rights has asserted that in times of economic crisis, "endeavours to protect the most basic economic, social and cultural rights become more, rather than less, urgent" (CESCR, General Comment No.2, 1990, para 9). Furthermore States policies must "even in times of severe resource constraints ... protect

the most disadvantaged and marginalized members or groups of society” requiring some prioritization of the most vulnerable (E/C.12/2007/1, para 4).<sup>1</sup>

5. The Independent Expert believes that even during a harsh crisis Governments, employers, trade unions and civil society can make a difference. When States have to cut down public expenditures they have policy choices: They can try to minimize the negative impact of a financial crisis on the enjoyment of social rights in consonance with their international human rights obligations, or they can do more harm to their own people than necessary; distribute financial losses in an unjust, unequal or discriminative manner, hitting the most vulnerable in society. Social partners can also contribute through responsible behaviour to overcome a financial crisis, and participation of civil society may be key to ensure that the voices and rights of citizens and the most marginalized groups are not ignored.

## A. Iceland’s international human rights obligations

6. Iceland has assumed various international obligations through ratification of a number of international and regional human rights treaties. It has signed eight core international human rights treaties, but not yet ratified two of them<sup>2</sup>. While Iceland accepted that individuals may submit complaints under international human rights treaties relating to civil and political rights, torture and elimination of discrimination against women and of racial discrimination, the country has not yet accepted that children and adults may bring complaints under Convention on the Rights of Children or under the International Covenant on Economic, Social and Cultural Rights.<sup>3</sup> At the regional level, Iceland has ratified the European Social Charter, but not yet signed or ratified the Additional Protocol to it providing for a system of collective complaints.<sup>4</sup>

7. Under the ICESCR to which Iceland is a party since 1979, Iceland is obliged to respect, protect and fulfil progressively social and economic rights, including the right to work, social security, health and education using its maximum available resources. While the Committee on Economic, Social and Cultural Rights has acknowledged that financial crisis may require economic adjustments, it reminded the Government of Iceland in November 2012 that such adjustments should be (a) of a temporary nature, (b) be necessary and proportionate, (c) not discriminative and compromise all possible measures, including tax measures, to support social transfers to mitigate inequalities and to ensure that the rights of the disadvantaged and marginalized individuals and groups are not disproportionately

<sup>1</sup> For a detailed review of State obligations see E/2013/82, Council of Europe Commissioner for Human Rights, *Safeguarding human rights in times of economic crisis*, Issue Paper, November 2013; Rachael Lorna Johnstone and Aðalheiður Armundadóttir, “Human Rights in crisis: securing the International Covenant on Economic, Social and Cultural Rights (ICESCR) in economic downturns”, *Int. J. Human Rights and Constitutional Studies*, vol. 1, no.1, 2013; Rachael Lorna Johnstone and Aðalheiður Armundadóttir, “Defending Economic, Social and Cultural Rights in Iceland’s Financial Crisis”, *Yearbook of Polar Law*, vol. 3, 2011, pp.455-477. See as well *Mannréttindi þrengingum: Efnahagsleg og félagsleg réttindi í kreppunni*, Icelandic Human Rights Centre, 2011, at: <http://rafhladan.is/bitstream/handle/10802/6818/Mannrettindi-i-threngingum-Bok.pdf?sequence=1>.

<sup>2</sup> The Convention on the Rights of Persons with Disabilities and the Convention for the Protection of All Persons from Enforced Disappearance. Iceland ratified as well all core conventions of the International Labour Organization.

<sup>3</sup> For Iceland’s status of ratification of core human rights treaties, see [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=78&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=78&Lang=EN)

<sup>4</sup> For Iceland’s interaction with the European human rights system, see <http://www.coe.int/en/web/portal/iceland>

affected; and (d) identify a social protection floor and a minimum core content of rights to ensure their protection at all times (E/C.12/ISL/CO/4, para 6).

8. The Committee on Economic, Social and Cultural Rights furthermore recommended to Iceland to intensify its efforts to address the high unemployment rate; to expand the coverage of unemployment insurance to all unemployed persons, especially the vulnerable and underprivileged groups; and to take measures to ensure that the social benefits system provides for a minimum essential level of benefits, ensuring a decent living for all beneficiaries, including single-parent families. It also recommended that levels of social benefits are monitored regularly and adjusted according to the cost of living and to strengthen its efforts to combat poverty and social exclusion, in particular of families with children, single parent families, and persons with disabilities. In addition the Committee called upon Iceland to take steps to address the negative impact of the financial crisis on the health sector, including through increasing its public health-care budget and to ensure that required health-care services are fully accessible for all, including for immigrants and children with disabilities. It furthermore recommended to increase the budget for the public education system for all education levels, in particular primary and lower secondary education, and to remedy the recent staff reductions, merging of class groups and cancellation of courses, and to intensify its efforts to address the high dropout rate in upper secondary education of students with an immigrant background (E/C.12/ISL/CO/4).

## **B. Iceland's human rights protection framework**

9. The Icelandic human rights system is comprised of several components. Legally, the framework is anchored by the Constitution, which recognises several key human rights under Chapters VI and VII. Constitutional provisions relating to economic and social rights are more limited: They include freedom of association including the right to form trade unions (Article 74), the freedom to pursue the occupation of one's choosing and the right of people to negotiate terms of employment and other labour-related matters (Article 75) which can be subject to restrictions. Article 76 provides that "the law shall guarantee for everyone the necessary assistance in case of sickness, invalidity, infirmity by reason of old age, unemployment and similar circumstances. The law shall guarantee for everyone suitable general education and tuition. For children, the law shall guarantee the protection and care which is necessary for their well-being."

10. Human Rights are guaranteed through a three-pronged grievance redress system consisting of the Parliamentary Ombudsman (Althing Ombudsman), regular Courts, and the European Court of Human Rights (ECHR). Each of these bodies plays a separate but crucial role. The Courts monitor conformity of laws with the Constitution, while the Althing Ombudsman secures the rights of citizens with respect to the functioning of administrative bodies, and the ECHR oversees general compliance with the European Convention on Human Rights. District courts and the Supreme Court are empowered to resolve the constitutionality of cases; they are also vested with a review capacity over decisions made by the executive power, which includes the power to render invalid laws that conflict with constitutional provisions or infringe on human rights.

11. The European Convention was incorporated into Icelandic domestic law through Act No. 62/1994 and can therefore be applied directly by the Courts. Prior to this incorporation, Icelandic Courts expressed general hesitation in applying the provisions of the Convention,

on the grounds that the same were not part of domestic law.<sup>5</sup> To date only relatively few cases relating to economic and social rights have been decided by the ECHR.<sup>6</sup>

12. The Althing Ombudsman (Act No. 85/1997) is empowered to deal with complaints that fall under the administration of the State and local authorities, but may as well investigate on his own initiative a particular matter or practice. In the context of the banking crisis complaints to the Althing Ombudsman increased significantly from about 300 complaints per annum (prior 2008) to around 500 per annum (2011-2013) limiting his ability to take up investigations on its own initiative.<sup>7</sup> This increase can partly be attributed to a general disillusionment within Icelandic society with public institutions in the aftermath of the banking collapse, motivating more citizens to make use of existing mechanisms for redress. The complaints included cases related to access to social security, welfare and unemployment benefits, housing, financial matters and banking as well as complaints about delays in administrative action. . Despite capacity constraints, the Ombudsman started one ex-officio investigation related to social housing in the city of Reykjavik.

13. In relation to the banking crisis the Supreme Court decided some important matters. In June 2010 the Supreme Court ruled that foreign currency indexed loans that were offered by Icelandic banks to many clients for buying vehicles and houses were illegal, violating laws designed to protect borrowers from exchange rate risks. On 28 October 2011 the Supreme Court upheld the Emergency Act of 6 October 2008 authorizing the Government to take over the management of collapsing financial institutions.

14. A Debtor's Ombudsman office was established in 2010 in response to the dramatic increase of household debt during the financial crisis and plays an important role protecting economic and social rights of over-indebted individuals and households in Iceland.

15. Disputes related to economic and social rights between citizens and State institutions come frequently first before the Unemployment Insurance and Labour Market Measures Complaints Committee, the Social Security Ruling Committee, the Social Services and Housing Complaints Committee, the Complaints Committee on Debt Mitigation or the Complaints Committee on Gender Equality. Individuals can usually bring complaints to these bodies free of charge within three months after a decision affecting them. The respective complaints committees have usually three members appointed by the Minister of Welfare and their respective chair must fulfil the requirement to be eligible to be appointed as judge to a district court (see for example Article 11, Unemployment Insurance Act, Act No. 54 2006 and Art. 7 Social Security Act).

16. The banking crisis can also be traced by the number of complaints decided by these bodies. For example, the Unemployment Insurance and Labour Market Measures Complaints Committee decided in 2009 only on 17 cases, while rendering in 2014 decisions in 101 cases, overturning six decisions of the Directorate of Labour. In 2009 the complaints committee dealing with social housing dealt with seven cases, while in 2014 it took 100 decisions, overturning 39 administrative decisions in favour of the claimants. Decisions of these committees are available online.<sup>8</sup>

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<sup>5</sup> See for example, Judgment by the Reykjavik District Court in Case No.968/1959 and Supreme Court Judgment 1975.601.

<sup>6</sup> See for example *Kjartan Ásmundsson v. Iceland* (12.10.2004).

<sup>7</sup> Skýrsla umboðsmanns Alþingis fyrir árið 2013 (Annual report 2013) available at: <http://umbodsmaduralthingis.is/Assets/Skyrsla2014.pdf>

<sup>8</sup> Based on decisions published on the Website of the Ministry of Welfare for the respective years. <http://www.velferdarraduneyti.is/kaerunefndir/>

17. In addition there are two Complaints Committees housed at the Financial Supervisory Authority (FME), dealing with disputes between consumers and bank, credit institutions and insurance companies. Private individuals have to pay a fee of ISK 5,000 or ISK 6,000 respectively when submitting a complaint that may however be reimbursed should the complaint be wholly or partly accepted.<sup>9</sup>

### C. Iceland's international human rights commitments

18. In 2012, during the Universal Periodic Review at the Human Rights Council Iceland undertook several commitments to strengthen its human rights protection system, including considering the ratification of the Optional Protocols to the Covenant on Economic, Social and Cultural Rights and to the Convention against Torture and actively examining the possibility of establishing a National Human Rights Institution (NHRI) compliant with the Paris Principles (A/HRC/19/13/Add.1).

19. In early 2013 a draft National Action Plan on Human Rights was developed by the Ministry of Interior which included the establishment of a NHRI. However, this plan has to date not yet been submitted to Parliament. Iceland has thus remained one of the few European countries lacking an independent NHRI, although international and regional human rights mechanism have recommended the establishment of such a body for a number of years.<sup>10</sup> The Commissioner for Human Rights of the Council of Europe has recently pointed to the important role NHRIs and other human rights protection bodies should play in context of economic crisis.<sup>11</sup> The time has come to fill this gap. Neither the Parliamentary Ombudsman nor the Ombudsman for Children can, based on their current legal mandates, currently fulfil the role of a NHRI. While the Icelandic Human Rights Centre carries out many activities similar to NHRIs in other countries, it lacks the required legal status and adequate and stable funding to perform fully such a task.

## III. Iceland's response to the banking crisis – adjustment with a more human face

### A. The banking collapse

20. Under the prime ministry of David Oddsson (1991-2004) the majority of Iceland's banking system was privatised and a floating exchange rate was introduced. Icelandic banks expanded rapidly during the 2000s owing to a combination of uncontrolled risk taking, a strong Icelandic currency exchange rate and very favourable conditions on international financial markets providing ample credit supply at low interest rates. The country became one of the richest countries in the world, recording the fourth-highest gross domestic product per capita in the world. From 2003 onwards the public Housing Financing Fund was allowed to provide loans up to 90 percent of the market value of a house within a

<sup>9</sup> See <http://en.fme.is/supervision/consumer-affairs/>

<sup>10</sup> General Assembly resolution 48/134, Human Rights Council resolution 20/14, CAT/C/ISL/CO/3, para 6, CEDAW/C/ICE/CO/6, para 38; CERD/C/ISL/CO/19-20, para 13; CCPR/C/ISL/CO/5, para 5; E/C.12/ISL/CO/4, para 7; A/HRC/26/39/Add.1, para 100 ; Council of Europe Commissioner for Human Rights, CommDH(2005)10, para 24-29 and 62.

<sup>11</sup> See Council of Europe Commissioner for Human Rights, *Safeguarding human rights*, (fn.1), pp. 12, 54-55.

certain upper limit and commercial banks entered the mortgage loan market offering frequently better terms than the government and aggressively expanding their consumer loans, leaving Iceland households as one of the heaviest indebted in the world.<sup>12</sup>

21. By 2008 Iceland was as well one of the most ‘overbanked’ economies of the world with its banks holding in September 2008 assets ten times of the countries’ GDP.<sup>13</sup> Early warnings of the crisis by foreign analysts in 2006 were largely ignored.<sup>14</sup> Icelandic banks, rated triple A, were already facing liquidity problems but continued to grow, offering costumers abroad, mainly in the United Kingdom and the Netherlands attractive interest on presumably secure deposits. The bubble continued to grow until the fall of Lehman’s Brothers when tightening conditions led the bank’s gross foreign debt burden rose from 43 percent of GDP in 2002 to over 700 percent of GDP resulting in the collapse of all three mayor Icelandic banks, Glitnir, Kaupthing and Landsbanki, in October 2008.

22. On 6 October 2008 the Icelandic Parliament passed Act no. 125/2008, the so-called Emergency Act, authorizing the Financial Supervisory Authority (FME) to take control over the three large banks. Crisis management emphasised uninterrupted domestic banking operations and three new banks – Islandsbank, Arion Bank and Landsbankinn – were established, taking over the domestic activities of the three collapsed banks. The State became a majority owner of Landsbakinn and a minority owner of the other two major banks. The Government injected share capital into the three new banks and several smaller financial institutions and took over losses at combined costs of roughly one third of the year-2008 GDP. While foreign investors had to carry the bulk of the costs of the Icelandic banking collapse, the amounts the State had to invest in order to recapitalise the Icelandic Central Bank and to cover losses from the takeover of Icelandic financial institutions has been estimated at 348-393 ISK billion, an amount almost equivalent to the annual worth of taxes paid by Icelanders.<sup>15</sup>

23. In November 2008, following a steep depreciation of the Icelandic krona, the Government introduced capital controls to stabilize the currency and prevent excessive capital outflows. Shortly thereafter, Iceland applied to the International Monetary Fund for emergency financial aid and was granted a US\$2.1 billion loan under a two-year standby program. The adjustment programme implemented jointly with the IMF was rather unorthodox in light of the previous IMF adjustment programs, including stabilising the currency through the introduction of capital controls, rebuilding the banking sector, addressing the public deficit through a combination of tax increases and expenditure cuts while keeping its social protection system largely untouched.

24. The rebuilding of the banking sector and protection of core social expenditures from cuts required borrowing by the Government. While in 2007 central Government debt was 43 percent of GDP, it reached 109 percent of GDP in 2013. Main reasons for the increase of public debt were the shifting of private debt, mainly by banks, into public debt, and the

<sup>12</sup> Erikur Bergmann, *Iceland and the International Financial Crisis, Boom, Bust and Recovery*, Houdsmills, Basingstoke 2014; Silla Sigurgeirsdottir and Rober H. Wade, “From control by capital to control of capital: Iceland’s boom and bust, and the IMF’s unorthodox rescue package”, *Review of International Political Economy*, vol. 22, no.1, 2015, p.103. Thorvardur Tjörvi Olafsson and Karen Aslaug Vinisdottir, “Household’s position in the financial crisis in Iceland”, Central Bank of Iceland, Working Paper, no. 59, 2012.

<sup>13</sup> Central Bank of Iceland, *Economy of Iceland*, September 2014, p. 29.

<sup>14</sup> Althingi Special Investigation Commission, Report, Reykjavik 2010..

<sup>15</sup> Thorolfur Matthiasson & Sigrun Davidsdottir, State Costs of the 2008 Icelandic Financial Collapse, 5 December 2012, available at: <http://www.economonitor.com/blog/2012/12/state-costs-of-the-2008-icelandic-financial-collapse/>



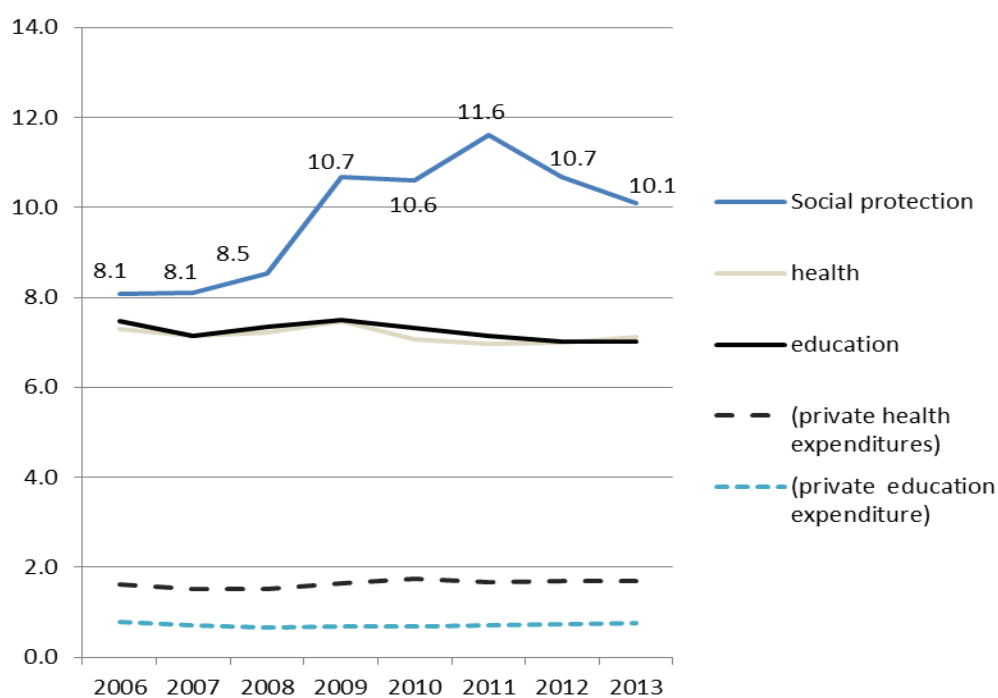
depreciation of the krona, as 33 percent of central Government debt was denominated in foreign currency.<sup>16</sup>

## B. Sheltering the welfare state

25. The emergency legislation approved by Parliament in October 2008 and subsequent adjustment policies were based on the principle that the socialisation of the losses of the banking collapse should be avoided as much as possible. Savings in deposits for Icelandic customers were secured and given preference over other claims, including those by international institutional investors. The debt of many local businesses was written off to a large degree to ensure that economic viable business could survive including related working places. The devaluation of the Icelandic Krona helped export driven demand in particular in the fishing industry and contributed to a tourism boom. However workers, in particular in the construction industry, suffered a heavy blow.

26. The Government has to be commended for sheltering core social expenditures against cuts. While overall Government revenues fell as a consequence of the economic crisis, the State made a strategic decision to keep up the percentage of the budget devoted to health care and education, and even increased social protection expenditure from about 8.5 percent in 2008 to above 10 percent of GDP during the first four years after the banking collapse. (see Figure 1).

**Figure 1: General government expenditure on social protection, health and education (in percentage of GDP)**



Source: Statistics Iceland, General Government Finances 2013, revision, 23 September 2014

<sup>16</sup> Central Bank of Iceland, Economy of Iceland, p.70.

**Table 1: Change of general government expenditure 2007- 2013, total and selected sub-categories (at 2013 prices, in million ISK)**

	2007	2008	2009	2010	2011	2012	2013	Change (2007-13)
<b>Total expenditure</b>	810.010	1.121.026	915.781	912.646	853.380	838.613	827.904	2,2%
<b>General public services (total)</b>	108.420	127.786	179.940	159.101	150.087	160.229	156.029	30,5%
<i>Executive and legislative organs</i>	7.861	7.842	6.384	6.086	6.159	6.228	6.647	-18,3%
<i>Debt service</i>	49.135	64.477	117.344	93.615	86.682	94.745	92.004	46,6%
<b>Public order, safety and justice</b>	27.264	26.753	29.366	23.491	30.626	26.171	26.619	-2,4%
<b>Economic affairs (total)</b>	112.417	378.653	113.762	125.011	106.683	88.729	88.836	-26,5%
<i>Road, water and air transport</i>	65.434	76.875	56.266	46.147	38.704	39.194	44.032	-48,6%
<b>Housing and community amenities</b>	9337	10013	8938	43978	6284	20243	11476	18,6%
<b>Social protection (total)</b>	161.812	172.914	201.684	197.055	207.295	194.964	188.973	14,4%
<i>Unemployment</i>	4.490	7.101	30.520	28.901	27.319	22.835	16.792	73,3%
<i>Disability pensions</i>	41.313	45.894	48.690	48.065	52.453	52.000	53.659	23,0%
<i>Old age pensions</i>	42.238	43.404	39.746	37.197	45.973	45.996	47.011	10,2%
<i>Family and children</i>	48.867	49.141	49.809	48.248	43.057	41.614	44.713	-9,3%
<i>Housing</i>	11.477	13.120	17.376	18.568	25.384	19.864	13.414	14,4%
<i>Social exclusion</i>	5.263	6.026	6.994	7.675	7.895	7.711	7.950	33,8%
<b>Health care (total)</b>	150.068	153.860	149.020	138.823	136.834	136.866	140.054	-7,2%
<i>Pharmaceutical products</i>	10.216	12.132	12.762	10.959	10.245	9.268	8.218	-24,3%
<i>Hospital services</i>	74.900	75.720	72.454	66.014	64.306	65.854	68.208	-9,8%
<i>Nursing and convalescent home services</i>	26.208	25.672	24.135	23.600	24.027	23.464	24.092	-8,8%
<i>General medical services</i>	16.324	16.744	15.521	15.324	15.431	15.384	16.178	-0,9%
<b>Education (total)</b>	155.492	163.192	153.735	147.635	145.244	141.976	143.537	-8,3%
<i>Pre-primary</i>	15.262	16.783	16.174	14.922	15.016	14.265	14.532	-5,0%
<i>Primary</i>	51.488	52.453	48.691	46.658	47.737	44.506	45.594	-12,9%
<i>Secondary</i>	46.654	48.224	45.858	42.693	43.226	43.072	43.266	-7,8%
<i>Tertiary</i>	33.967	37.164	35.024	35.027	31.577	32.095	31.986	-6,2%

Source: Statistics Iceland, General Government total expenditure by functions, 1998-2013

27. Public health expenditures decreased from 7.22 per cent of GDP in 2008 to 6.99 of GDP in 2012 and there was only a limited shift of health care costs from public coverage on to the pockets of individuals. Private health care expenditure grew by 13 percent between 2008 and 2012, but remained moderate and has so far not exceeded 19.7 per cent (2010) of total health expenditures.

28. Measured in per cent of GDP, overall public education expenditures were only moderately reduced, while private expenditures for education increased by about 12 per cent after the banking collapse.

29. As the economy contracted by about eight per cent between 2008 and 2010, it should be noted that in real terms painful cuts were made to public health services and education. Compared to 2007 expenditures, funds spend in 2013 on public health care and education were by 7.2 and 8.3 per cent lower (see Table 1). Cuts in the health sector were however made mostly strategically, focussing on decreasing hospital costs, postponing investments in hospital infrastructure and acquisition of new equipment, and by reducing pharmaceutical costs. Outpatient services were largely spared from cuts. In the education field, primary schools were hardest hit by cuts, while pre-primary and tertiary education institutions suffered less. Owing to higher youth unemployment, universities and tertiary education institutions had however to cope with a significant increase of students, as Government programmes encouraged young job seekers to undertake training or enrol in tertiary education.

30. The sharp increase of Government spending from 2007 to 2008 reflects the cost to re-capitalize the Central Bank of Iceland and the new, down-sized domestic branches of Icelandic banks (Table 1, spending on Economic Affairs). By 2013 overall Government spending returned roughly to pre-crisis levels. However the State had to borrow to cover the costs of the banking collapse, resulting in the significant increase in public debt service which is the main reason why overall spending on general public services grew, as debt service is currently responsible for about 60 percent of expenditures under this category. Debt service accounted in 2013 for 11.1 percent of all State expenditure which means that compared to pre-crisis years less funds are available to cover other public costs.

31. Spending on public order, safety and justice was only slightly reduced (- 2.4 percent). Cuts were strongest in the area of road, water and air transportation infrastructure (-48.6 percent) It should be noted that executive and legislative organs made as well an effort to save costs.

32. Social protection spending peaked during the years 2009-2012 when Iceland witnessed historically unprecedented rates of unemployment. Funds devoted to rental subsidies and to combat social exclusion were as well augmented. Government spending on disability pensions grew owing to a growth of beneficiaries. Public expenditure on old age pensions saw as well an upward trend after 2011. Only spending on family and child benefits was reduced as stricter income based eligibility criteria for accessing benefits were imposed.

33. Not only a smart and more targeted use of funds ensured that core social and economic rights remained protected, it was as well the willingness of the society, in particular of its overwhelming female work force in the health and education sector to work overtime, accept freezing of their salaries and to use of resources more efficiently. Such gender imbalances caused by the financial crisis in Iceland require to be corrected, as the Working Group on the issue of discrimination against women in law and practice has recently stressed (A/HRC/26/39/Add.1).

34. One of the new innovative bodies formed in early 2009 was Welfare Watch, an independent consultative body which today includes more than 35 representatives, from key ministries, municipalities, social partners and civil society, many also working at grass

root level. The aim was to monitor the social impact of the crisis, provide advice to State institutions and coordinate targeted interventions on the ground. Welfare Watch managed to spread the message that during the crisis the weakest in society should be protected. The watchdog submitted several reports with recommendations, including a report that was submitted to Parliament. Welfare Watch is expected to submit in 2015 additional recommendations on how to address and guarantee the rights of persons suffering multiple forms of deprivation to the Government and the Independent Expert hopes that their expert advice will be duly considered by Icelandic authorities.

### **C. Taxation and the distribution of losses**

35. Iceland's adjustment programme focused to a lesser extent on public expenditure cuts, but had a strong emphasis on increasing revenue generation through taxation. The reintroduction of a progressive income tax system helped to shelter the most vulnerable from the effects of the crisis. In addition the flat tax on capital income was increased and a wealth tax was temporarily introduced to generate revenues. The only regressive tax measure was a one percent increase of the Value Added Tax from 24.5 percent to 25.5 percent. On the whole social benefits were directed at lower income households, mainly by cutting maternal and parental leave entitlements. While disposable income fell across the entire society, the poorest 20 % in Iceland lost between 2008 and 2010 around 9 percent of their disposable income. In comparison the 10 percent of the wealthiest households that had accumulated assets during the boom years of the bubble economy lost 38 percent of their income. Social transfers and taxation policies reduced inequality in Iceland significantly. They also helped stabilising internal demand, as the citizens with lower incomes spend a much higher percentage of their funds on goods and services.<sup>17</sup>

### **D. Special Investigative Commission of the Parliament**

36. In December 2008 the Icelandic Parliament set up a Special Investigation Commission to investigate and analyse the processes leading to the collapse of the three main commercial banks co-chaired by a Supreme Court judge, the Parliamentary Ombudsman, and an academic expert. The Special Investigation Commission submitted a detailed report to Parliament in April 2012 outlining the responsibilities of entities and individuals, including bankers, politicians and other governmental officials in charge of supervising the financial and monetary systems. From December 2009 to September 2010 a Parliamentary Review Committee scrutinised the report.

37. On 28 September 2010 the Parliament adopted unanimously a resolution setting out the review of existing legislation, including the Constitution of the Republic of Iceland, the Accountability Act of Ministers, and legislation relating to financial markets and operations therein. While the Independent Expert notes that some of the mentioned legislation has been reviewed and revised, many of the laws have to date not yet been reformed in order to prevent the repetition of a similar crisis.

38. On the same day Parliament initiated proceedings against the former Prime Minister before a High Court of Impeachment. Resolutions against three other ministers failed to

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<sup>17</sup> See Stefan Olafsson, "The Icelandic way out of the crisis, welfarism, redistribution and austerity", Social Research Centre, University of Iceland, Working Paper no. 1, 2012 and Bruno Martorano, "Is it possible to adjust 'With a Human Face?' Differences in fiscal consolidation strategies between Hungary and Iceland" Florence 2014, Unicef, Office of Research, Working Paper, 2014-03.

receive a sufficient majority in Parliament, so that they could not be examined by the High Court of Impeachment. The Prime Minister was cleared by the High Court from most charges, but sentenced for failing to call emergency meetings as foreseen under the Constitution. He has appealed to the European Court on Human Rights where his case is still under consideration.

## **E. Reform of banking supervision**

39. The Special Investigative Commission pointed also to the failure of supervisory authorities. The report concluded that “the Financial Supervisory Authority FME, the institution that bore the main responsibility for monitoring the activities of the banks, did not grow in the same proportion as the banks, and its practices did not keep up with the rapid change of banks’ practices”. Failures of the FME included insufficient expertise to carry out its statutory supervisory tasks, as well as a lack of assertiveness when it discovered that regulated entities did not comply with applicable laws or regulations. In response to violations of law, usually only written comments were provided to the relevant financial corporation, without putting the matter through proper legal channels. Nor did the authorities try after 2006 in a decisive way to prevent the collapse and to reduce the size of the balance sheets of Icelandic banks. The Special Investigative Commission also detailed the failures of the Board of Governors of the Central Bank and responsible Ministers to inform each other appropriately through written reports or act adequately on information indicating that urgent action would be required. It concluded that next to the former Prime Minister, the Minister of Finance, the Minister of Business Affairs, the Director General of the FME and three Governors of the CBI had shown negligence.<sup>18</sup> In addition, staff of the FME was frequently recruited from their supervisory functions directly into more lucrative jobs in the same financial institutions they were earlier on supposed to supervise, undermining the ability of the FME to perform its functions.

40. As a lesson learned the Government has implemented after the crash a range of reforms aimed at enhancing its supervisory capacities.<sup>19</sup> The FME also assisted in the investigation of 205 cases relating to alleged violations prior to the 2008 banking collapse, referring 103 cases of bankers to the Office of the Special Prosecutor for further action.<sup>20</sup>

41. Implementing the recently passed European banking legislation is required to further strengthen the system. The Financial Stability Council composed by representatives from the Ministry of Finance, the Central Bank and the FME seeks to adequately monitor the macro financial situation of the country in order to take timely decisions when needed. As the Parliament played a crucial role in identifying the causes of the financial crisis, it may be considered that Parliament should play a role in the Financial Stability Council. One way might be through incorporating to its Board a representative from the Parliament or ensuring citizens oversight of the Council through a parliamentary committee.

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<sup>18</sup> Report of the Special Investigative Commission, Chapter 21, Causes of the Collapse of the Icelandic Banks – Responsibility, Mistakes and Negligence, available at: <http://www.rna.is/media/skjol/RNAvefurKafli21Enska.pdf>

<sup>19</sup> See for example Future Structure of the Icelandic Financial System, report of the Minister of Economy to the Althingi, March 2012, pp. 63-77, 101-102

<sup>20</sup> Annual Report of the Financial Supervisory Authority 2013, Reykjavik 2013, p. 9.

## **F. Office of the Special Prosecutor**

42. The capacity of the judicial system to scrutinize financial and economic criminal conduct was inadequate in comparison to the size of Iceland's international operating banking sector. Parliament established therefore the Office of the Special Prosecutor (Act No. 135/2008) to investigate alleged criminal conduct before and during the banking collapse connected to the financial undertakings of the Icelandic financial institutions, including activities of their owners. Since 2011 the Office has also been tasked to investigate tax related or other economic criminal conduct. The Office has to deal with complex cases involving many suspects, witnesses and a huge amount of documentation, involving alleged fraud, embezzlement, market manipulation and inside trading. In 2012 up to 110 staff supported its investigations, but staffing and funds have been reduced since then. As of 1 December 2014, 184 cases relating to the banking collapse have been investigated by the Special Prosecutor, of which 27 cases involving 62 individuals had been prosecuted by district or higher courts, with six cases resulting in rulings of the Supreme Court, while 35 cases were still under investigation.

43. The efforts of the Special Prosecutor to combat impunity for economic crimes and ensure justice in relation to alleged criminal conduct before and during the banking collapse is commendable and will hopefully promote law respecting behaviour in the financial sector. Individuals that have been under investigation, and lawyers representing them, expressed however some concerns to the Independent Expert, including phone tapping of privileged telephone conversations between suspects and their lawyers.<sup>21</sup> The Independent Expert has been informed by the Office of the Special Prosecutor that phone tapping of suspects was stopped after it became apparent that communication between lawyers and their clients was not excluded. Adequate resources for the work of his Office are needed to ensure a timely and rule of law based exercise of his mandate, including investigations into past, current and future economic criminal activities.

## **G. Participation of citizens and accountability**

44. In the aftermath of the banking collapse Icelandic citizens went to the streets protesting in front of Parliament. The Government resigned and parliamentary elections were held in early 2009 bringing a new coalition to power that ruled until April 2013. Many citizens have however lost trust in established political and public institutions and new forms of citizens' participation emerged.

45. For the first time in Icelandic history referenda were held on the question whether and to what extent the Government should pay back deposits by foreigners in Icesave, a branch of the former Landsbanki. As most concerned savers in the United Kingdom and the Netherlands were covered by national banking guarantees, individuals residing in these countries were protected up to their national guarantee from losing all their deposits.

46. After the banking crash senior management of the Financial Supervisory Authority and the Central Bank changed, to a large degree through resignations. However, there appears to have been hardly cases dealing with criminal or non-criminal aspects of negligent behaviour of officials. Administrative, civil, or criminal sanctions against Governmental officials appear to have been limited to the trial of the former Prime Minister and one government official who was accused for inside trading. While the efforts to hold

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<sup>21</sup> See as well Johannes Sigurdsson and Dorir Juliusson, "Hriktir i studum rettarríkis?" (Turbulence in the legal System?), *Timarit lögfraedinga*, vol. 64, no. 2, 2014, pp. 105-168.

bankers accountable is remarkable in light of the modern financial history a comprehensive attempt to ensure accountability in the public sector appears to be lacking. Furthermore there are no regulations that would prohibit high-level civil servants or Members of Parliament from being immediately employed in certain positions in the private sector. Such post-employment restrictions have been repeatedly recommended in evaluation reports by the Council of Europe.<sup>22</sup>

47. The Council of Europe identified in 2012 as well some shortcomings in relation to the independence and impartiality of the judiciary.<sup>23</sup> In the view of the Independent Expert, the system of appointment of judges could be further strengthened to ensure absolute independence of the judiciary branch from executive influence. A more sophisticated domestic legal framework establishing the duties of public officials to protect public interest and outlining the consequences of their breaches would contribute to creating the right incentives.

## IV. Impact of the banking crisis

### A. Right to work

48. While unemployment increased to about 10 percent in 2009 and 2010, it never reached the unprecedented levels in other European countries trapped in a debt crisis. Active labour market programmes, training and opening secondary schools and universities for learning prevented that a much larger part of the population would end up to be neither in work or training. The policies were largely successful, with the number of long term unemployed dropping from about 2,500 persons in 2012 to around 1,000 job seekers by end of 2014.

49. Companies were assisted to keep their staff at reduced working hours, while subsidising salaries. Social partners agreed on wage restraint to secure employment in the aftermath of the crisis, but decided to increase the minimum wage to protect low-income workers. Instead of shortening the duration of unemployment benefits, the Government temporarily extended unemployment benefits to a maximum duration of four years, preventing that a much larger proportion of the unemployed would end up depending on social security benefits of last resort.

50. But challenges remain: While overall unemployment has dropped to 4.1 per cent during the fourth quarter of 2014, unemployment of foreigners, in particular of Polish citizens, which reached during the crisis years more than 20 percent stood in July 2014 still above 10 per cent. The youth unemployment rate was with 8.5 per cent still significantly above average, while men continue to be face slightly higher unemployed risk (4.3 percent) than women (3.9 per cent).<sup>24</sup>

<sup>22</sup> Council of Europe, Second Evaluation Report Iceland, Addendum to the Compliance Report on Iceland, Greco RC-II (2006) 10 E Addendum, 19 February 2009, para 14-18; and Council of Europe, Fourth Evaluation report, Corruption prevention in respect to members of parliament, judges and prosecutors, Greco Eval IV Rep (2012) 8E, para 59-60.

<sup>23</sup> Council of Europe, Fourth Evaluation report (see fn. above), paras 74 -75; 83-83, 94 and 160.

<sup>24</sup> Statistics Iceland, Labour Market Statistics, 4th quarter 2014, 29 January 2015. Data on unemployment of immigrants was provided by the Directorate of Labour.

## B. Right to social security, poverty and social exclusion

51. The number of persons depending on municipal financial aid - the support of last resort - has nearly doubled from a low of 4.280 households in 2007 to over 8.000 households in 2013. In total about 4 percent of all inhabitants of the country and 6.5 percent of all households depend on such income support, with single men without children and single women with children being most dependent on municipal financial assistance. 45 percent of the recipients were unemployed.<sup>25</sup>

52. As of 1 of January 2014, unemployment benefits will be reduced to 2.5 years and it is expected that many long term unemployed will have to rely on the minimum social security net offered by municipalities, which are not very well prepared, both administratively and financially, to take care of the increasing number of applicants expected to seek assistance. Municipalities apply different eligibility criteria, applicants enjoy different levels of benefits depending on their place of residence, and differences cannot be always justified by disparities in local living costs. The social security benefit of last resort aimed at covering minimum costs for a decent living varies by more than 30 percent, depending on municipality. The rate for a single person is between 129,240 ISK (Akranes) and 169.199 ISK (Reykjavik).<sup>26</sup> A harmonized, equal and non-discriminative treatment of all applicants in conformity with Art. 2 of the ICESCR appears to be missing.

53. Iceland has not yet specified a core minimum budget that people and families would be required to have, in order to enjoy essential economic and social rights and be able to participate in public life, which reflects actual costs of living, although the debtor's ombudsman has developed a reference budget for the purpose of debt mitigation.

54. Welfare, labour market and taxation policies contributed to keep the percentage of people at risk of poverty and social exclusion (as defined by the European Union) below 14 per cent in the aftermath of the crisis. The 2013 survey on income and living conditions (EU-SILC) conducted by Statistics Iceland shows however that there are particular groups at risk. For example children (16.6 per cent); foreign citizens (19.0 percent), unemployed persons (23.2 per cent) and tenants living in rented accommodation at market rates (30.7 percent) or at reduced rates (33.0 per cent) are at much higher poverty risk, while home owners, including those paying mortgages (7.1 per cent) or having already paid fully back their loans (9.1 per cent) face below average risk of poverty or social exclusion (see Figure 2). Debt relief measures for home owners appear to have been generally successful in preventing widespread poverty among households paying mortgages. The Independent Expert is however particularly concerned about the situation of people that either have no means to afford to buy own accommodation or have lost their own home after the banking crisis.

55. Single parent households continue to require particular attention, as 27.1 percent of them have to live on less than 60 percent of median income. While child poverty in Iceland is low in international comparison, both at-risk-of poverty and material deprivations rates are worrying among children whose parents are below 30 years of age (the risk of-poverty rate is at 36.5 percent), who live in single parent households (30.8 percent) or in rented accommodation (20.6 per cent).<sup>27</sup>

<sup>25</sup> Statistics Iceland, Municipal social services 2013, 9 October 2014.

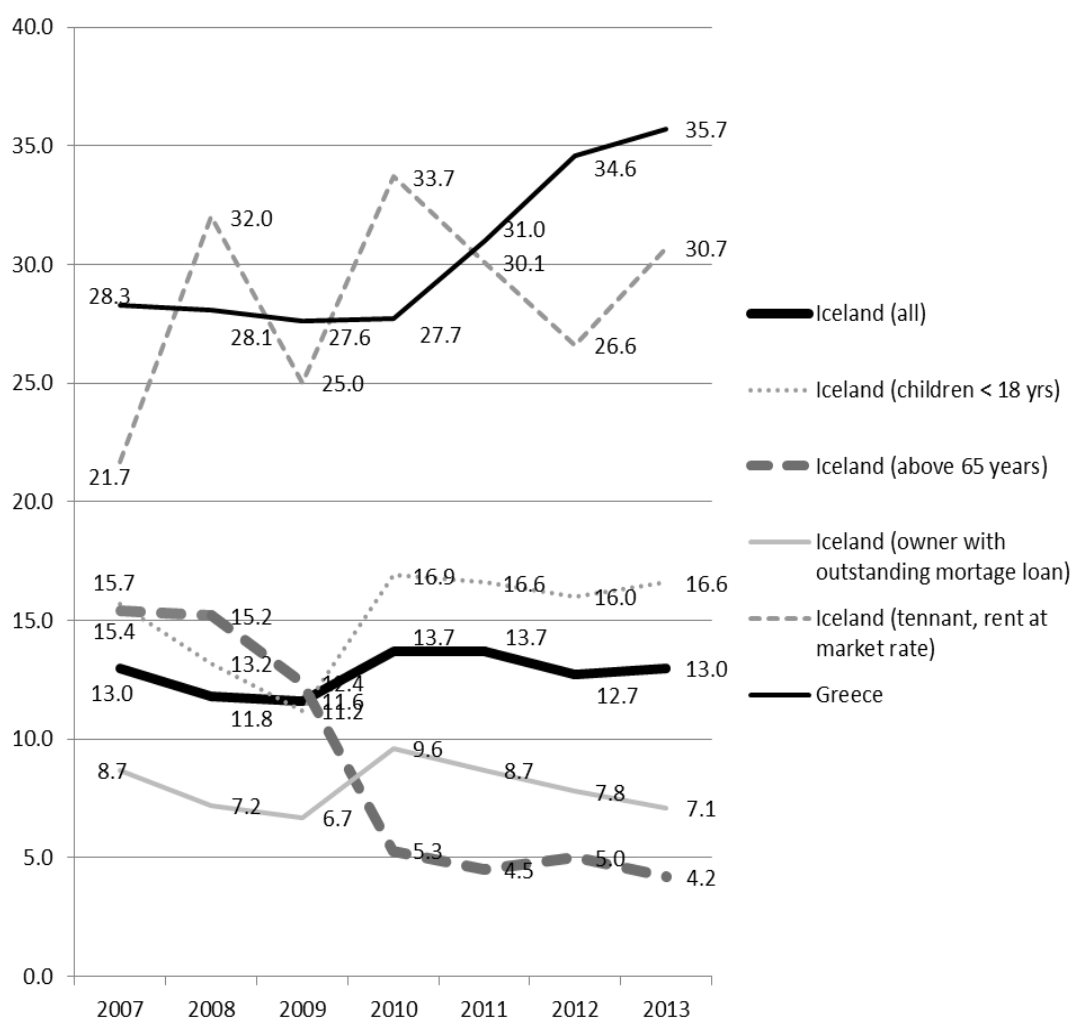
<sup>26</sup> Hanna R. Björnsdóttir et al, EAPN Iceland, Country Report Iceland European Minimum Income Network, September 2014, p.6

<sup>27</sup> Statistics Iceland, Social indicators: Children and poverty, 10 November 2014.



56. The Government of Iceland should be commended for combating successfully poverty and social exclusion amongst the elderly. It appears that by raising the public tax funded minimum pension guarantee in September 2008 above the minimum wage in the labour market and by further increasing it as a crisis policy measure in early 2009, old age poverty was substantially reduced (see Figure 2). Gender differences relating to income poverty amongst the elderly were as well closed. In 2008, 19.7 of all women over 65 years of age lived below the 60 percent median income poverty threshold, while in 2013 this applied to only 4.0 percent of them (for elderly men, income poverty dropped from 9.5 percent to 3.9 percent).<sup>28</sup>

**Figure 2: People at risk of poverty or social exclusion, Greece, Iceland, and selected population groups (in percent)**



Source: Statistics Iceland and EU-SILC

<sup>28</sup> SEE <http://ec.europa.eu/eurostat/web/income-and-living-conditions/data/database>.

## C. Right to health

57. Iceland has a universal health care system of high standard. Hospital services are as well free of charge. Since 2009, all children get access to free primary health care. On the other hand, user fees for health care have increased from about 16.4 percent in the year 2000 to 19.1 percent in 2010 of health expenditures and adult dental care clients have to pay. The number of people who reported having skipped a dental visit because it was too expensive increased from 6 percent (2007) to 11 per cent in 2013. Access to affordable dental care is a concern in particular of the lowest income quintile, where 18 percent say they skipped a necessary service because they could not afford it.<sup>29</sup> The Government should be commended for having gradually introduced a scheme providing free dental health care for children. Expanding such a scheme for poor individuals irrespective of age should be considered.

58. Research conducted so far indicates that the banking collapse had only limited impact on the public health. Studies have identified slightly higher stress levels among women, in particular unemployed women and students with middle levels of income or education. The crisis reduced however smoking, heavy drinking, consumption of sugared soft drinks and fast food and resulted in better sleeping behaviour.<sup>30</sup>

59. The number of persons reporting to be in good or very good health dropped only slightly from 79.0 percent in 2007 to 76.8 in 2013. Self-reported good health decreased stronger amongst the more affluent but remained largely unchanged amongst those with lower incomes. The Euro Health Consumer Index ranked Iceland in 2014 at seventh place, with particular good scores on patient rights, prevention and health system outcomes, including the lowest number of infant deaths or the lowest number of potential years of life lost.<sup>31</sup> While the Icelandic health system maintained its impressive services, job satisfaction of doctors and nurses suffered probably most under cost-containment policies.<sup>32</sup> The health sector is starting to face difficulties to maintain highly qualified staff who can easily find more attractive jobs abroad.

## D. Right to education

60. Independent research suggests that the core functions of the schools, teaching and learning, were to a large extent protected. The reduction in expenditure did not cause a school crisis in the sense that the access to education of suitable quality was threatened. This, however, may not apply to all primary schools, which were harder hit by the cut-backs than the other school levels. Various cuts were made at all school levels; administrative positions were made redundant, classes became bigger, no overtime was paid and principals served as substitute teachers. Finally, at the pre-, and primary school

<sup>29</sup> Statistics Iceland, health services, available at : [www.statice.is](http://www.statice.is)

<sup>30</sup> Christopher B. MacClure, Mental health and health behaviours following an economic collapse. The case of Iceland. (PhD thesis), University of Iceland, School of health Sciences, April 2014. Tina Laufrey Asgeirdottir et al. "Was the economic crisis good for Icelanders? Impact on health behaviours", *Economics and Human Biology*, Vol. 13 (2014), pp. 1-19.

<sup>31</sup> Health Consumer Powerhouse, *Euro Health Consumer Index 2014*, Report 2015. [http://www.healthpowerhouse.com/files/EHCI\\_2014/EHCI\\_2014\\_report.pdf](http://www.healthpowerhouse.com/files/EHCI_2014/EHCI_2014_report.pdf)

<sup>32</sup> I.B. Solberg et al., "Cross-national comparison of job satisfaction in doctors in economic recession", *Occupational Medicine*, vol. 64, no. 8, 2014, pp. 595-600.

levels, a number of schools were merged while teacher salaries have remained low in international comparison.<sup>33</sup>

61. Iceland has one of the highest rates of early school leavers in Europe with male and immigrant school children being at particular risk to leave upper secondary school before reaching minimum qualifications. The Independent Expert notes that the Government's White Paper on Educational Reform identifies tackling school drop-out in secondary schools as one of its priorities.<sup>34</sup>

62. As a preventive measure, financial literacy should be included in the curriculum of schools. The long report of the Special Investigative Commission could be summarized in a more accessible form and discussed in schools. Social and economic rights should become more visible in the existing curriculum on democracy and human rights, which should include more information on the rights of citizens as clients of banks, and how individuals can use existing mechanisms at national or international level to ensure that their social rights are respected. This should include information about Icelandic institutions defending the rights of citizens in the social and economic sphere.

## **E. Right to adequate housing and individual debt relief**

63. Past policies were nearly exclusively directed to promote loan based home ownership. In the aftermath of the crisis, loans indexed to foreign currency skyrocketed. They were recklessly sold to consumers breaching national law provisions, but had been as well popular among the population before the banking crash, due to the spread between the local and foreign currencies. Banks engaged in a competition to offer consumers with credit, but after the crash thousands of citizens were caught in a debt trap, when the value of the Icelandic Krona depreciated drastically. Suddenly many Icelandic homeowners had private debt outstripping the value of the homes and were unable to pay their debt back to commercial banks and to the Housing Financing Fund.

64. The Government reacted with several debt relief schemes and by imposing moratoria on foreclosures. In August 2010 it established the Office of the Debtor's Ombudsman funded by a levy on financial institutions which can negotiate on behalf of debtors with different lenders. While initially most requests for debt mitigation came from homeowners; this trend has shifted in 2014. More than half of all applicants for debt mitigation are now living in rented homes.<sup>35</sup> There is a worrying trend of a smaller group of people, heavily trapped in debt, that can neither afford paying their daily living expenditures, including housing, nor pay back their debt. It is doubtful whether additional debt relief initiatives taken by the current Government this year will solve adequately and definitely the situation of these households. According to views expressed to the Independent Expert, further targeted debt relief for heavily indebted poor households would not provide risks to the restructured commercial banks and the Housing Financing Fund, which have largely written off these liabilities in their balance sheets.

<sup>33</sup> Steinunn Helga Lárusdóttir, et al. "The Economic Collapse and the Impact on Schools in Iceland", (unpublished). Research project by the School of Education, University of Iceland; OECD Economic Surveys, Iceland 2013, p. 101.

<sup>34</sup> OECD: Towards a strategy to prevent dropout in Iceland, January 2012; European Commission, Reducing early school leaving: key messages and policy support, November 2013, p.32; Ministry of Education, Science and Culture: White paper on education reform, Reykjavik 2014.

<sup>35</sup> Data provided by the Debtor's Ombudsman to the Independent Expert.

65. Iceland continues to need an adequately equipped Debtors Ombudsman to assist over-indebted households in debt mitigation, provide advice, and improve financial literacy to prevent citizens from falling again into a debt trap.

66. Of particular concern is access to affordable and appropriate housing with secure legal tenure for the less affluent, especially given the fact that many homeowners have lost their own homes, and have entered the rental market. In particular young persons with children find it difficult to find affordable accommodation. Apartments for long-term renting are missing and there is a need to improve the legal protection of rent payers and expand social housing programmes.

## **V. Lessons learnt**

### **A. Good practices**

67. Several good practices can be identified First, the Government tried to reduce the negative impact of the banking collapse on its citizens by sheltering their deposits, breaking up the failed banks into smaller entities servicing the local citizens and economy, introducing capital controls when needed and debt relief for companies and private households, including the establishment of a Debtor's ombudsman.

68. Second, the Government responded to the financial and economic crisis by sheltering vulnerable groups through expanding social protection spending, promoting temporary part time work, active labour market policies and a temporary expansion of entitlement to unemployment benefits. Instead implementing front-loaded austerity measures making the crisis worse, adjustment policies focussed on increasing Government revenue through reintroduction of progressive income taxation, a wealth tax and higher corporate taxes. Although nearly every citizen suffered losses, the costs of the collapse were distributed overwhelmingly in a fair manner, with stronger protection of low income groups, while the wealthy - less at risk to fall below minimum levels of enjoyment of social and economic rights - experienced a much higher drop to their disposable income. Inequality within Iceland's society decreased. While unemployment went up, it never reached the catastrophic levels as in other financial crisis affected European countries. The Independent Expert commends Iceland in particular for reducing poverty among the elderly in particular for aged women through raising the public guaranteed minimum pension. 69. Welfare Watch should explicitly be mentioned as an innovative response to a financial crisis. The body can be credited for having improved collaboration between Government departments, local authorities and civil society in tackling the social impact of the crisis and for enhancing citizens' participation. Its work resulted in improved social monitoring and targeted interventions by authorities and welfare organisations. Welfare Watch also helped to spread the message within public authorities and society at large that nobody should be left behind as a consequence of the banking collapse..

70. Iceland should also be credited for initiating a comprehensive analysis of the causes of the banking collapse through the Special Investigation Commission established by Parliament. In addition, serious efforts were made to combat impunity for economic crimes in the financial sector, through the establishment of the Office of the Special Prosecutor.

## **B. Can the Icelandic experiences be useful in other contexts?**

71. The Independent Expert intends to discuss in a future report more thoroughly how States can respond in a human rights compliant manner to debt and financial crisis. He would nevertheless like to make some few remarks whether the lessons learned in Iceland can be fruitful for other countries.

72. In doing so, certain particularities of the country and its financial crisis should be considered: before the banking crisis hit, Iceland enjoyed in international comparison rather high levels of realization of social and economic rights. The country ranked very high on the human development index, had one of the lowest infant mortality rates in the world, unemployment levels below two percent, and a high degree of gender equality, despite persistent pay-gaps.

73. A government in a highly developed country - such as Iceland - may find it easier to respond in a human rights compliant manner to an economic shock when it can still depend on significant revenues, modern infrastructure, and well equipped, mostly functioning, public institutions with well-trained officials.

74. Iceland could rely on its social welfare system that proved largely capable of absorbing the shock of the economic crash. Already before the crisis hit, there was a social security benefit of last resort in place to guarantee some basic protection to all, the country had a minimum old age pension guarantee and other social benefits that could be adjusted to respond to the crisis. The Icelandic experience underlines again the critical role comprehensive social security nets can play in protecting economic, social and cultural rights in the event of an economic downturn.

75. The economic crisis was largely rooted in one sector, which helped responding to it. Iceland enjoyed furthermore a track record of responsible public debt management and was therefore capable to take on new debt to recapitalize its Central Bank, downsize its financial institutions and expand its social spending in response to the crisis. Instead of engaging in a policy of internal devaluation the sharp fall of the Icelandic Krona assisted the country getting out of the economic crisis through export driven demand and a tourist boom.

76. With a population of 320.000 the country is small and very interconnected, it has an active civil society, well rooted democratic traditions, a high degree of trade union organisation, a long tradition of collective bargaining and solving conflicts through dialogue and compromise and a public administration overwhelmingly willing and capable to respond to citizen's needs. In response to the public dissent after the banking crisis the government resigned allowing for early elections and referenda were held allowing citizens to express their views on certain particular decisions. There was increased dialogue with and among citizens. While some reform projects have not been concluded or were abandoned, the banking collapse has changed the political culture of the country.

77. The way Iceland dealt with its banking collapse underscores the importance of the indivisibility of civil, political, economic, social and cultural rights to ensure human rights compliant responses to a financial crisis. Despite the particularities outlined above, it is the belief of the Independent Expert that as well bigger and less developed countries that may face more complex problems can learn from the policy responses in Iceland and cherish the value of having a social security net in place that ensures a basic protection floor to all. Of course they must adopt and adjust solutions tailored to their particular needs and circumstances.

78. International financial institutions should as well learn from the successful implementation of the adjustment programme in Iceland, which included capital controls, sheltering the social welfare system from cuts, and a strong focus on revenue generation

and redistribution through taxation policies. Efforts of the International Monetary Fund to consult extensively with public institutions, interest groups, including extra-parliamentary groups, improved in the view of the Independent Expert programme design and its public acceptance while he regrets that economic, social and cultural rights failed to feature more explicitly in the agreed adjustment programme.<sup>36</sup>

## **VI. Conclusions and recommendations**

**79. Iceland has managed the financial crisis better than many other countries. However, nobody should be left behind. Household debt relief measures have successfully protected the majority of home owners from poverty and social exclusion, but not all. A society that is rightly proud of its comprehensive social welfare system and sees children and family as its core should not tolerate that the risk for children to grow up in poverty is with 12.2 percent still higher than for adults (8.5 percent).<sup>37</sup>**

**80. The largely human rights compliant response to the financial crisis was not only an outcome of conscious policy decisions, it is as well a reflection of the responsible behaviour of social partners, a vibrant civil society, committed and competent civil servants and of individuals engaged in their communities working towards the common good.**

**81. The Independent Expert believes that international organisations and other countries facing similar situations can learn from the particular path chosen in Iceland which included protecting its core social welfare system, efforts to ensure citizens participation in the decision making process, and endeavours to establish political, administrative and judicial accountability. He recommends close consideration of the good practices identified in this report.**

**82. Financial systems require appropriate regulations and institutions aimed at ensuring that they serve the real economy. Yet, it is also necessary to reflect on the moral driving forces of the colossal over-borrowing that led an entire country into the crash. To what extent, and under what circumstances, debt-based-growth strategies are necessary and consistent with the full realization of human rights and happiness? The Icelandic case shows that these questions are at the core of the role currently played by financial markets in modern societies.**

**83. In conclusion, the Independent Expert would like to recommend to the authorities of Iceland:**

**(a) to address unemployment through a comprehensive employment policy, with a special focus on groups at risk of long-term unemployment, such as young people and immigrants;**

**(b) to provide further targeted debt relief for poor and highly indebted households;**

**(c) to ensure that all people have access to social security benefits of last resort on an equal and fair footing which provides for a minimum essential level of benefits, monitored and adjusted regularly according to the cost of living;**

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<sup>36</sup> See as well Hjálti Ómar Ágústsson & Rachael Lorna Johnstone; "Practising what they preach: Did the IMF and Iceland exercise good governance in their relations 2008-2011?" in: *Nordicum-Mediterraneum*, vol. 8, no. 1, 2013

<sup>37</sup> EU-SILC 2013, At-risk of poverty rate, people living below 60 percent of median income.

- (d) to continue its efforts to combat poverty and social exclusion, in particular of young families with children, single parent families, persons with disabilities, immigrants and individuals depending on the rental market;
- (e) to improve access to affordable housing for people depending on the rental market, improve regulation of the rental market and strengthen the legal protection of tenants;
- (f) to address gender imbalances caused by the economic crises identified by the Working Group on the issue of discrimination against women in law and practice<sup>38</sup>;
- (g) to increase public health-care and education spending with the improved economic situation to pre-crisis levels and ensure that required health-care services, including dental care, is fully accessible for all;
- (h) to intensify its efforts to address the high dropout rate in upper secondary education of students, in particular children with an immigrant background;
- (i) to strengthen financial literacy and education on social and economic rights in the curriculum of schools.
- (j) to improve public information, including in foreign languages, on how individuals can use existing human rights protection mechanisms at national or international level, including information about Icelandic institutions and associations defending the rights of citizens in the social and economic sphere;
- (k) to further improve the institutional design and regulatory framework of oversight on the banking industry, managing potentially destabilizing capital flows and strengthen parliamentary oversight over it;
- (l) to implement outstanding legal reforms identified by the Parliamentary Committee that was established to consider the recommendations of the Special Investigative Commission; to enhance laws on governmental officials' accountability, strengthening judicial independence; and impose post-employment restrictions in the private sector for senior Government officials in line with existing recommendations of the Council of Europe;
- (m) to maintain adequate resources to the Office of the Special Prosecutor to ensure a timely and rule of law based exercise of his mandate, including investigations into past, current and future economic criminal activities and tax evasion;
- (n) to ensure that an adequately equipped Debtor's Ombudsman Office can continue to assist over-indebted households in debt mitigation, provide advice, and improve financial literacy to prevent citizens from falling again into a debt trap;
- (o) to establish without further delay a National Human Rights Institution, compliant with the Paris Principles with a broad mandate covering as well social, economic and cultural rights;
- (p) to ratify the Convention on the Rights of Persons with Disabilities, the Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocols to the Convention on the Rights of the Child and to the International Covenant on Economic, Social and Cultural Rights to ensure that individuals are entitled to send complaints under these human rights treaties. The way

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<sup>38</sup> A/HRC/26/39/Add.1

**in which Iceland responded to the banking collapse shows that the Government has taken its commitments to protect social and economic rights seriously, consequently it seems appropriate that Iceland should provide as well to its citizens access to these complaints mechanism at international level.**

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