Icelandic Labour Law

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Introduction

The summary is mainly based on my own former writings, reports from the Ministry of Social Affairs, the English translation of the Icelandic labour law and information from the Icelandic Federation of Labour. I have tried to give a brief overview of the rules and regulations on the Icelandic labour market. In that attempt I have written more thoroughly about The Act on Trade Unions and Industrial Disputes no. 80/1938 than other matters, as the act forms the foundation of the whole system of industrial relations. I have also tried to give the reader a glimpse of the reforms in recent years. The article can by no means be considered as a complete overview. In my work I have enjoyed the assistance of *Hrafnhildur Stefánsdóttir, Magnús Norðdal* and *Anna Guðný Júlíusdóttir* and I would like to thank them for their contribution.

1 History, Contest, Characteristics, Peculiarities in Relation with the Nordic Model

In one of *Sigurður Líndal*'s essays on Icelandic labour law he says that modern time is entered Iceland at the turn of the 20th century with new technology in the fishing industry, foreign money and wireless connection with the outside world.[1] This evolved into a modern labour market, where labour organizations were established and employers formed their federations. The situation led to industrial disputes, but legislation on labour, as on so many other things at that time, was limited, until a general law on Trade Unions and Industrial Disputes was passed from the parliament, Althingi, in1938, Act no. 80/1938. The act is still valid, but has been revised several times, and forms the basis of industrial relations in the private sector of the Icelandic labour market.

The model of the legislation came from Denmark and was based on the September agreement from 1899, which was natural, as Iceland was a Danish colony until 1918.

The first trade unions were established just after the turn of the 20th. century, the big unions in Reykjavik, Dagsbrún, the male workers´ union in 1906, and Framsókn, the female workers´ uninon in 1914 and the Icelandic Federation of Labour was established in 1916. Alþýðuflokkurinn, The Social Democratic Party, was formed at the same time and the two were connected until 1942.

Today the Icelandic Federation of Labour, ASÍ, is the largest federation of workers, with the majority of trade unions in the private sector.[2] The public sector is divided up into the Confederation of Workers of the State and Communities (BSRB) and the Confederation of Academic Workers (BHM). Membership in labour unions is over 85%. Approximately ¾ of the labour market belongs to the private sector, and ¼ to the public sector.

In the early days of the labour movement the characteristics of the Icelandic labour market were severe industrial disputes with great participation from the

1 Sigurður Líndal is former professor at the University of Iceland.

2 The membership of ASÍ is app. 70.000, which amounts to 2/3 of the whole labour force.

political parties, the left wing, both Communists and Social democrats, and also from the Independence Party (the conservative party in Iceland) that had great influence on the labour movement.

Today political influence within the labour movement is insignificant.

Historically the two blocks on the labour market were ASÍ, The Icelandic Federation of Labour with most labour organizations in the private sector, and VSÍ, the Confederation of Employers. The big disputes were basically between these two and they are traditionally the big blocks. In the last decades the organizations in the public sector (BSRB, The Confederation of Workers of the State and Communities, and BHM, The Confederation of Academic Workers) have gained the right to strike, so the disputes have been more based on the public sector.

The characteristics of the Icelandic labour market can be simplified two major factors: The main industry in the country has until recently been the fishing industry, with between 60-80% of all export trade, and the fact that the population of Iceland is only 280.000 today. This has characterized the whole picture. Unstable economy and fluctuation in the employment rate can all be related more or less to those two major factors. Two other significant characteristics should also be mentioned here, high membership of unions, over 85% of workers are affiliated members,[3] and high participation of women in the labour market. [4]

One of the peculiarities of the Icelandic system is that the collective agreements between trade unions and employers relating to workers' wages and terms are legally binding as the minimum right of the worker according to the Act on Wage Earners´ Terms no. 55/1980. The worker can negotiate for better wages and terms, but all agreements with less right than the collective agreement states are by law invalid. This applies to all workers and employers, regardless of their membership in unions.

2 Industrial Relations and Collective Labour Law: The Importance of the Labour Movement

World War II marked a momentum in the evolution of the Icelandic labour market. Employers formed their own organizations in more or less the same order as the workers had done decades earlier and the organizations started negotiating instead of the constant fight earlier when the labour organizations set up their own wages. The Confederation of Icelandic Employers was established in 1934, but at that time several federations of employers had already been founded.

The Act on Trade Unions and Industrial Disputes no. 80/1938 was passed in 1938. The law set out the rules in industrial disputes, the foundation and open admittance to trade unions, rules on collective agreements, shop stewards, strikes and lockouts, conciliation in industrial disputes and labour court. The act is still

3 Figures from 1998, Statistical Bureau, Nov. 1999.

4 46% women, 54% men, Statistical Bureau 2001.

valid and has been revised respectively. The act forms the basis of industrial relations as well as the basis of the structure of the whole labour movement in Iceland. As stated before the close relations to Denmark meant that the Icelandic Act on Trade Unions and Industrial Disputes from 1938 is in many ways based on the Danish model.

The Icelandic labour system is based mainly on collective agreements. Law stipulates some basic principles concerning workers´ rights and duties, but there exists no complete legislation regarding labour and social affairs in Iceland. Icelandic law contains provisions on the minimum rights that are ensured for all workers. Generally, the law states minimum rights, and agreements made on the basis of more restricted rights are therefore invalid.

The act from 1938 on Trade Unions and Industrial Disputes marked the beginning of a new era in Icelandic labour rights. In the act the rights of the labour unions in the labour market to enter into wage agreements were ensured and rules were set regarding strikes, as well as the act stipulating the establishment of the Labour Court, which is a special court addressing labour affairs.

According to the Icelandic labour legislation of 1938, with amendments, the trade unions are fundamental units in the labour market. The law gives trade unions the power to conduct their own affairs themselves within the limits laid down by law. In addition to the provisions on trade unions, agreements on wages and conditions the laws containing terms which strengthen the position of the unions greatly. Most or all contain clauses by which employers have a legal undertaking to give union members precedence for work of all kinds; in return the union is obliged to admit a non-union member whom an employer wishes to appoint.

The Act on Trade Unions and Industrial Disputes contains provisions on the right of individuals to establish trade unions, to join trade unions, the right of the unions to make agreements on wages and conditions, including the form of the agreements, their period of application and formalities for notice of termination. However, it has nothing to say about the content of the wage agreements. But in the nature of the case, this must be limited to matters over which employers have control: Wages, working hours, notice of dismissal, holidays and leave, facilities and other conditions in the workplace. The Act on Industrial Disputes also contains provisions on the right to nominate shop stewards, about the State Conciliation and Mediation Officer and a special court of law, the Labor Court.

The Act on Trade Unions and Industrial Disputes does not apply to all workers in the country. There is a special act for the public sector, The Civil Servants' Collective Agreements Act, no. 94/1986, as well as for Bank Clerks, Act. no. 34/1977.

According to article 1 in the Act no. 80/1938 people are entitled to found trade unions and federations of trade unions for the purpose of working jointly for the interests of the working class and wage earners in general. Trade unions shall be open to all those belonging to the trade concerned within the district of each union in accordance with further fixed rules contained in the statutes. The district of a union shall never be smaller than a municipality.

Trade unions are in charge of their own affairs subject to the limitations imposed in the act. Individual members of the unions are bound by their lawfully

concluded statutes and agreements of the union and the federation to which it may belong.

According to article 4 of the act, employers, foremen and other representatives of employers are not permitted to attempt influencing the political views of their workers, their attitude to dealing with trade unions or political association or industrial disputes by

a. notice if termination of employment or threats of such notice,
b. monetary payments, promises of profit or refusal to effect just payments.

3 The Collective Agreement as an Instrument for Regulation of Wages and Employment Conditions

Act no. 80/1938 states that trade unions are legal contracting parties concerning the wages and terms of their members, provided the union concerned has determined in its statutes to let its activities extend to such matters.

All agreements between trade unions and employers relating to workers' wages and terms shall be in writing, specifying the period of validity and respite for notice of termination. Alternatively the period of validity shall be one year and respite for notice of termination shall be three months. In case notice of termination of an agreement is not given within the respite this will be considered to be extended for one year, unless an alternative arrangement is fixed in the agreement itself. Notice of termination of an agreement shall be in writing.

Agreements between individual workers and employers are invalid to the extent to which these are in conflict with agreements between a trade union and the employer provided that the union has not approved of the agreements.

Trade unions are responsible for any breach of agreement which the union itself or its lawfully appointed shop stewards commit in connection with their functions of trust for the union. The financial responsibility has, however, certain limits. The trade union will be held responsible for breaches of agreements by its individual members only provided the union will be blamed for the breach of agreement. Non-federated employers and non-unionized employees shall be solely responsible for breaches of agreement which they cause. If it is not demonstrated that a contracting party has taken part in measures which may be regarded as work stoppages, each union member shall be responsible for his participation in such measures.

3.1 Shop Stewards

The Act determines that at each place of work where at least 5 persons are employed the executive committee of the local trade union in the trade concerned is entitled to nominate 2 persons to act as shop stewards out of the group working at the working place. The employer shall approve one of them in the capacity of trade union shop steward at the work station.

The shop steward shall take care that work agreements are adhered to by the employer and his representatives and that the workers' social or civil rights are not curtailed. Workers shall apply to the trade union shop steward with their complaints about the employer and his representatives. Shop stewards enjoy certain security in their work and employers and their representatives are not permitted to terminate the employment of shop stewards on account of their service as such or to let them in any way suffer for the fact that a trade union has charged them with discharging shop steward duties for the union. In case an employer requires to reduce the number of workers a shop steward shall, other things being equal, have priority in retaining the job.

3.2 Industrial Disputes and the Socalled Order of Peace (friðarskyldan)

Respecting strikes and lockouts trade unions, employers' associations and individual employers are authorized to declare strikes and lockouts for the purpose of working for the advancement of their demands in industrial disputes and for the protection of their rights under the present act, subject only to the conditions and limitations which are laid down by law.

If there is a valid agreement between a trade union and employers regarding workers´ wages and terms, the right to strike does not exist, the socalled order of peace prevails.

In the act, the term "work stoppage" refers to lockouts by employers and strikes in which employees discontinue their normal work to some extent or in its entirety in order to achieve a specific common goal. The same applies to other comparable measures taken by employers or employees which may be regarded as the equivalent of work stoppages.

When an employers' union or a trade union intends to begin a work stoppage, such a stoppage shall only be permitted if it has been decided in a general secret ballot with the participation of at least one fifth of the members with voting rights according to the voting roll or members' register, and if the proposal has received the support of the majority of the votes cast. A general secret postal ballot may be held among the members concerning a proposal for a work stoppage, and its result shall be valid irrespective of the participation rate.

If a work stoppage is intended to involve only a particular group of union members or employees at a specified working place, a decision concerning the work stoppage may be taken on the basis of the votes of those whom it is intended to involve. In such a case, one fifth of those with voting rights must take part in the ballot, and the majority must support the proposal for a work stoppage.

A proposal for a work stoppage shall state clearly to whom it is specifically intended to apply and when the plan is to implement the stoppage. For a decision to call a work stoppage to be legal, negotiations or attempts at negotiations on the demands presented must have proved fruitless despite the efforts of a conciliation and mediation officer.

A negotiating committee or competent representatives of the contracting parties may at all times cancel a work stoppage. The same parties may postpone a work stoppage that has been called, once or more often, for up to 28 days in

total, without the approval of the opposite contracting party, providing that party is informed of the postponement with at least three days' notice. It shall, however, always be possible to postpone a work stoppage that has been called, and a work stoppage that is in progress, with the approval of both parties.

A decision on stoppage of work to be commenced for the purpose of enforcing an amendment to or decision upon wages and terms shall be made known to the conciliation and mediation officer and those against whom such an action is mainly directed seven days prior to the intended commencement of such an action.

It is not permissible to commence stoppage of work:

1. in case a dispute only concerns items on which the Labour Court is empowered to decree, except for the enforcement of the Court's decree.

2. in case the purpose of the stoppage of work is that of forcing the authorities to perform acts which they are not in duty bound to undertake or not to perform acts which they are to undertake according to law, provided that these are not acts to which the authorities are a party in the capacity of employers. The laws in force relating to civil servants remains unchanged, this provision notwithstanding.

3. in support of a union which has commenced unlawful stoppage of work.

When stoppage of work has been commenced in a lawful manner those against whom it is in some respect directed are not permitted to promote the prevention thereof with the assistance of individual members of the unions or federations being parties to the stoppage of work.

3.3 Mediation in Collective Interest Disputes

The Minister of Social Affairs appoints a State Conciliation and Mediation Officer for terms of five years at a time. He shall be an Icelandic citizen, in charge of his financial affairs and with an unblemished reputation. Efforts shall be made to ensure that his attitude is such that he may be regarded as impartial in matters involving employees and employers.

The Minister also appoints a Deputy State Conciliation and Mediation Officer who shall fulfill the same requirements as the State Conciliation and Mediation Officer.

The Deputy State Conciliation and Mediation Officer shall take over the functions of the State Conciliation and Mediation Officer when he is indisposed and shall assist him as the occasion demands.

If it is considered demonstrated that an industrial dispute will have extremely serious consequences, the Government may appoint a special conciliation committee to work on the resolution of the dispute. The State Conciliation and Mediation Officer and the parties in the dispute shall be consulted before the conciliation committee is appointed.

The State Conciliation and Mediation Officer shall work for conciliation in industrial disputes between employees and their unions, on the one hand, and employers and their associations on the other. He shall monitor the situation and outlook in the economy and the employment market throughout the country. He shall keep abreast of the wages and terms situation and matters which might cause disputes in relations between employers' associations and trade unions.

When entering negotiating periods, employers, or their organizations, and trade unions, shall draw up a schedule for the conduct of negotiations on the renewal of collective agreements. The contracting parties may grant their national or overall federations a special mandate to draw up negotiation schedules on their behalf if such a mandate is not provided for in the lawful constitutions of the contracting parties' federations or organizations. Negotiation schedules, signed by both contracting parties, shall be sent to the State Conciliation and Mediation Officer immediately.

A negotiation schedule shall be drawn up not later than ten weeks before the valid collective agreement comes up for review. If the contracting parties have not made a negotiation schedule by this date, the conciliation and mediation officer shall issue a negotiation schedule for the contracting parties not later than eight weeks before the valid collective agreement comes up for review, in which case the conciliation and mediation officer shall take account of other negotiation schedules that have been made.

At any time after the issue of a negotiation schedule, the contracting parties may request the mediation of a conciliation and mediation officer, or his assistance, and he shall then immediately use his influence to ensure that attempts to reach agreement go ahead in accordance with the negotiation schedule. The contracting parties shall give the conciliation and mediation officer the opportunity to monitor an industrial dispute and attempts to reach a settlement whenever he so requests.

If negotiations between the contracting parties break down, or if either of them considers there is little hope of success being achieved through further attempts to reach a settlement, either of them, or both acting jointly, may refer the dispute to a conciliation and mediation officer, who then calls the contracting parties, or their representatives, to a meeting as soon as possible to continue attempts at conciliation while there is hope that they will produce results.

The conciliation and mediation officer shall also take over the direction of the negotiations in accordance with what has been determined in the negotiation schedule. However, he may at all times postpone a formal attempt at conciliation and urge the contracting parties to try to explore possibilities for a settlement in direct negotiations between themselves, if he considers that this is more likely to produce results. The State Conciliation and Mediation Officer may at any time take over the direction of negotiations if he considers this to be of advantage.

If a notification of a work stoppage is received, the conciliation and mediation officer shall be obliged to work for conciliation between the parties to the dispute and to direct their negotiations.

The contracting parties shall be obliged to attend, or have their representatives attend, any negotiation meeting to which they are called by a conciliation and mediation officer.

If a conciliation and mediation officer's attempts at conciliation prove fruitless, he may submit a compromise proposal to resolve the industrial dispute. The compromise proposal shall be submitted to the employees' trade unions or federations of trade unions and employers, or an individual employer, if only one employer is involved in an industrial dispute, for approval or rejection. The conciliation and mediation officer shall consult the parties' negotiating committees before submitting a compromise proposal.

If a dispute concerns only a specific union division or occupation within a union or a union federation, or a specific enterprise, a conciliation and mediation officer may decide that only that division or occupation or enterprise shall be involved in the ballot.

3.4 The Labour Court

The Labour Court is established in the capital of Iceland to serve the entire country.

The Court consists of five persons appointed for terms of three years, as follows: One by the Confederation of Icelandic Employers, one by the Icelandic Federation of Labour, one by the Minister of Social Affairs out of three persons nominated by the Supreme Court, and two by the Supreme Court, one of whom shall be specially nominated to be the President of the Court. If an employer involved in a case is not a member of the Confederation of Icelandic Employers, the judge nominated by the Confederation shall vacate his seat and the employer shall nominate a judge to take his place in the case. The same shall apply as regards the judge appointed by the Icelandic Federation of Labour when a party to the case is a trade union or federation of trade unions standing outside the overall employees' organization. The same parties shall nominate deputy judges who take their seats when the principal judges are indisposed.

The judges shall be Icelandic citizens, in charge of their financial affairs and with an unblemished reputation. The two judges who are appointed by the Supreme Court shall have a university degree in Law.

The Labour Court is supposed to act fast. Decisions of the court can generally not be appealed to any other court, so they constitute the final result of the dispute.

The function of the Labour Court is as follows:

1. to pass judgments in cases arising on account of charges concerning violation of the present act and loss sustained due to unlawful stoppage of work.

2. to pass judgments in cases arising on account of charges concerning violations of a work agreement or due to disagreement relating to the interpretation of a work agreement or its validity.

3. to pass judgments in other cases between workers and employers which the parties concerned have agreed to refer to the Court, provided that at the least three of the judges are agreed upon such a procedure.

3.5 The Civil Servants' Collective Agreements Act, No. 94/1986

A special law, The Civil Servants' Collective Agreements Act, no. 94/1986 addresses the wage agreements of civil servants. Industrial disputes in the public sector are taken to the Labour Court. Act no. 70/1996 applies to the rights and duties of the civil servants. There are also various special rules that apply to certain groups of employees on the Icelandic labour market, for example fishermen and sailors, industrial apprentices, agricultural workers and bank employees.

4 Employment Protection

4.1 In General

Implementation of general labour legislation is supervised by the Ministry of Social Affairs. Two bodies under the ministry, the Occupational Safety and Health Administration and the Directorate of Labour, deal with individual aspects of implementation.

Within the range of Icelandic labour legislation, agreements on wages and conditions enjoy a special protection. In particular, the law lays down that contracts between individual employees and their employers are invalid in so far as they run counter to agreements between a union and employers. This provision was changed slightly in a law passed in 1974 and revised in 1980, the Act on Wage Earners Terms no. 55/1980, by which it is set down that the pay and other working conditions upon which parties in the labour market agree shall at least be the minimum conditions for all paid employees in the relevant type of work in the area covered by the agreement. This is regardless of whether the worker is a member of the union concerned or not.

This effects that a typical feature of the current labour legislation in Iceland is that the laws lay down certain minimum rights, while making it possible for the trade unions and employers to agree on better solutions through collective bargaining. In some cases the laws have been utilized as a solution in a wage dispute. As an example could be mentioned the first Act on Unemployment Benefits, which was introduced in 1955 after a long lasting wage dispute, and the Act on Workers´ Rights to Advance Notice of Termination of Employment and to Wages on Account of Absence through Illness and Accidents, Act no. 19/1979.

The collective agreements of individual labour unions have frequently addressed various issues of labour rights, and been followed by legislation. It has also become increasingly common for the government to take a part in the solution of wage disputes by promising to introduce particular measures in the political arena in order that wage-earners agree to lower wage increases. Government offers of this kind have been called "social packages" and it can be said that since 1955 there has hardly been a single serious wage dispute in Iceland which has ended without support of this kind from government and legislature. The chief areas that have been covered by such matters are social issues of various kinds, such as the welfare of the old and disabled, housing

policy, unemployment insurance (social security), safety in the workplace, pensions and taxation. Various important pieces of legislation in the area of public welfare may be traced back to these social packages, the most famous one the Act on Unemployment Benefits and the Act on Sick Leave from 1979.[5]

4.2 Priority Clauses or Closed Shop Clauses

Traditionally most agreements have had some kind of priority or closed shop clauses in the past. They have varied, some agreements stated that a worker should pay fees to a certain union, others stated that a worker should belong to a certain union, but in general the purpose has been to strengthen the unions in their own right. In a small society in which companies are small, personal and family ties are close, and unions have few members, these interests and the advantages and disadvantages of the right to organize are brought into sharp focus.

Priority clauses regarding recruitment were originally included in wages and terms agreements in Iceland, precisely in order to protect the unions right of existence and hence the right to organize since in early days the trade unions had to struggle for their existence against employers in small towns and villages. In the beginning priority clauses were the unions, main method of maintaining their activity, and have thus become the condition on which it is possible to initiate and go on with the work of the unions and the struggle for improvement in ordinary people´s standards of living. In this connection it can also be pointed out that the Icelandic trade union movement has always, in its struggle for improved terms and the acquisition of rights, conducted this battle for all wage-earners, in Iceland, irrespective of whether or not they are members of a trade union.

In recent years the Icelandic government has deliberately urged the organizations of the social partners to remove closed shop clauses from their collective agreements. The Icelandic Federation of Labour (ASÍ) has also taken steps to have closed shop clauses deleted.

This matter has also been brought to the courts. Following a strike by the Coach-drivers' union, Sleipnir, in 2000, two district court judgments were delivered on compulsory membership on the basis of place of residence. In this case, the dispute concerned the question of whether individuals who were not members of Sleipnir, but were either members of other unions or were not unionized, were permitted to drive coaches during a strike by members of Sleipnir. Sleipnir had prevented these individuals from driving on the premise that under the collective agreement, they were obliged to be members of Sleipnir, and hence to stop work for the duration of the strike.

The district court decreed that a provision in Sleipnir's collective agreement on priority for members of Sleipnir to drive coaches was not at variance with paragraph 2 of article 74 of the Constitution, on freedom of association. On the other hand, the court decreed that closed shop clauses in the collective

5 Act no. 19/1979.

agreement on compulsory union membership on the basis of place of residence was contradictory to paragraph 2 of article 74 of the Constitution.

In addition to the abovementioned the Act on Wage Earners´ Terms no. 55/1980 states that an employer is obliged to deduct from an employees wages his contributions to the relevant trade union according to rules set forth in the wages and terms agreements. This has not been prohibited by court decisions.

4.3 The Older Reform

It is possible to talk about the older labour reform and the recent reform in Icelandic labour law. Around the middle of the last century some very important reforms were accomplished, both through law and through general agreements. Among those were legislation on social security (1935) , legislation on unemployment benefits (1955) and the general agreement on pension funds (1969)

4.3.1 Unemployment Benefits

Unemployment benefits have been paid to unemployed workers in Iceland since 1956, with the Act no. 29/1956, that was passed after a long industrial dispute in 1955. In the beginning the unemployment benefit was paid up to a period of 6 months. Since then the Act has been changed several times and under the Unemployment Insurance Fund Act, no. 12/1997, the worker can receive unemployment benefit for a period of up to five years.

The maximum rate of unemployment benefit as of 1st January 2001 was ISK 67,979 per month. The maximum sum is revised when the state budget is dealt with each year, taking into account trends in wages, prices and the economy (*cf.* article 7). Those who have a legal obligation to support dependent children under the age of 18 shall be paid 4% of the daily rate support additionally for each child. Unemployment benefit paid to a person who receives an old-age pension or disability pension, or a disabled person's grant from the State Social Security Institute, is reduced by the amount exceeding the tax-free income limit for income insurance as determined at any given time. The same applies to old-age pension and disability pension paid by pension funds, and earnings from part-time employment.

4.3.2 Pension Funds

The Icelandic old-age pension system is composed of a tax-financed public pension scheme, paying a flat rate basic pension from the age of 67 and a means based supplementary pension from the age of retirement, usually 65-70, and mandatory funded occupational pension schemes, that are mostly run by private pension funds governed jointly by the partners on the labour market.

As it looks at present the provision of retirement income will thus in the next century be based on three pillars, namely a relatively small public pension, dominant mandatory funded pension schemes and voluntary private savings.

New legislation, the Act on Mandatory Pension Rights and the Operation of Pension Funds, no. 129/1997, tends to strengthen and underpin the present system. Stability in issues related to pension funds is essential because the guarantee of pension rights is one of the most important concerns of any pension fund member. According to the act all wage earners and self-employed persons are obliged to belong to a pension fund, which operates either according to law or has been approved by the Ministry of Finance. The membership of the pension funds is generally based on occupation, with a few exceptions, and general agreements set the rules of membership. Contributions must be at least 10% of total earnings, 4% is deducted from wages and the employer pays 6%.

The foundations of the present pension fund system in Iceland were laid in general wage settlements in the spring of 1969 where the trade unions traded wage increases for the establishment of fully funded mandatory occupational pension funds. This development was prompted by the low level of old-age pensions paid by the public system at that time, that only paid a flat rate pension amounting to 17% of the average earnings of a male worker.

Membership in occupational pension funds first became compulsory for wage earners by law in 1974 and in 1980 this compulsion was extended to the self-employed. The investment returns of pension funds are tax-free. The 6% contribution paid directly by the employer is charged as cost by the firm and is thus not taxed. The 4% contribution deducted from wages is also deductible.

Nearly all pension funds in Iceland pay old-age, disability and survivors-pensions. The main rule is that members can begin to withdraw old-age pensions at the age of 67. The pension funds in Iceland have a high degree of solidarity and coinsurance as the relation between contributions and rights to benefits are in most cases the same for young and old, men and women, those with spouses and children and those without. We can take for example a young person that has an accident and becomes invalid and unable to work for the rest of his life. The pension fund will pay him a contribution for the rest of his life equivalent to what he would have got by paying to the fund till the age of 67.

4.4 The Recent Improvement

In recent years a great improvement has been made in various sections on the labour market. The improvement has mainly been achieved in relations to the Treaty of the European Economic Area that Iceland became part of in 1993. Here are some examples of the latest reforms:

4.4.1 Equal Rights and Discrimination Law

The new Act on the Equal Status and Equal Rights of Women and Men no. 96/2000 took effect on 6th June 2000. The act had been revised for two main reasons: on the one hand to take into account the changes that had occurred in the field of gender equality and changes of emphasis in projects and methodology, and on the other to stimulate development towards equality in important areas in society. When the act was revised, therefore, attention was given to the situation regarding gender equality in the administration and the

definition of specific projects to work on. It was also emphasized that gender equality must be taken seriously as the responsibility of both sexes.

Various new items are to be found in the act, including the establishment of a special institution, the Equal Status Bureau *(Jafnréttisstofa)*, which is administered by the Ministry of Social Affairs and is entrusted with the monitoring of the application of the act. In addition, each ministry is required to appoint a special equality co-ordinator to monitor equality issues within the sphere of the ministry in question and the institutions working under the auspices of the ministry. The act contains provisions on the reconciliation of family and occupational obligations; this is intended to meet the rising demand by women to be accepted as fully valid members of the workforce, and of men to play a greater role in their families.

There is also a provision stating that institutions and enterprises with more than 25 employees are to set themselves equality programmes or to make special provisions regarding gender equality in their employment policies.

The act prohibits discrimination of all types, direct or indirect, on grounds of gender. Employers are not permitted to discriminate between their employees as regards wages or other terms on the grounds of gender. The same applies to promotion, continuing education, vocational training, study leave, working conditions and other matters. If an employee seeks redress on the basis of the act, the employer is prohibited from dismissing him or her for that reason. If evidence is presented of direct and indirect discrimination due to sex, the employer shall be obliged to prove that other reasons than sex were the criteria for his/her decision. Finally, the act defines sexual harassment and prescribes means of preventing it.

Under Aaticle 16 of the Act on the Equal Status and Equal Rights of Women and Men no. 96/2000, employers are obliged to take the necessary measures to enable men and women to integrate the demands of their work and their duties towards their families. These measures are to be aimed at increasing flexibility in arranging work and working time so as to accommodate both the needs of the economy and of the employees, including enabling them to re-enter employment after taking maternity/paternity leave or parental leave or periods of leave necessary to meet urgent family requirements.

Under the Act on the Equal Status and Equal Rights of Women and Men no. 96/2000, a person who, deliberately or through negligence, violates the act shall be liable for damages under general rules. In addition to pecuniary loss, the person concerned may be obliged to pay compensation for non-pecuniary loss. Finally, violations of the Act are punishable by fines paid to the Treasury.

4.4.2 Maternity Leave, Parental Rights

Rules on maternity leave first came into effect in general agreements some 30 years ago. Since then several laws have been passed and revised on the subject, due to the enormous change in the labour market.

A new Maternity/Paternity Leave and Parental Leave Act, no. 95/2000, was passed in 2000 and is due to take full effect on 1st January 2003. This constitutes a fundamental reform of the older system. The main aim of the act is to create conditions in which men and women are able to participate equally in paid

employment and other work outside the home, and to guarantee children time with both parents. The act is intended to make it easier for parents working outside the home (both mothers and fathers) to strike a balance between the demands of their careers and those of their families. Other aims are to promote a sharing of parental responsibilities and gender equality on the labour market.

The main features of the new system that will follow the amendments are that women and men each 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. They are also able to divide a further three months' leave between themselves as they wish.

A parent who has been active on the Icelandic employment market for six months preceding the first day of maternity/paternity leave has the right to receive payments during the leave period. These payments amount to 80% of his/her average gross wages or calculated remuneration over the twelve-month continuous period ending two months before the first day of the leave.

A special Maternity/Paternity Leave Fund, which is financed by social security tax, was established in order to make these payments. The emphasis is on flexibility in the taking of this leave: parents are able to take their leave in a continuous stretch, or in several shorter periods and/or to take it by working part time. Employers are obliged to make efforts to meet employees' wishes with regard to the taking of maternity/paternity leave.

Should a child need to stay in hospital for more than seven days directly following the birth, it shall be permitted to extend the parents' joint right to maternity/paternity leave by the number of days the child has to stay in hospital, prior to its first homecoming, by up to four months. It shall also be permitted to extend the parents´ joint right to maternity/paternity leave by up to three months in case of a serious illness of the child which requires more intensive parental attention and care. Maternity/paternity leave can consequently be lengthened up to a total of seven months in the case of the illness of a child. The mother's maternity leave can also be extended by up to two months due to a serious illness suffered by her in connection with the birth. Mothers must, however, take maternity leave for at least the first two weeks after the birth of a child. The right to take maternity/paternity leave expires when the child attains the age of 18 months.

The new act also guarantees pregnant women and those who have recently had babies additional health and safety protection at work, and pregnant women are guaranteed support from the Maternity/Paternity Leave Fund if they are unable to go on working because of their pregnancy.

Maternity/paternity leave taken in accordance with the act is calculated as working time for purposes of calculating employment-related rights, e.g. for vacation entitlement, rights connected with length of service, sick-leave, notice periods for termination, etc. Parents continue to pay pension fund premiums while on maternity/paternity leave, and the employer's complementary premium is paid by the Maternity/Paternity Leave Fund.

The act also guarantees parents who are not active on the labour market or in formal studies an independent right to a birth grant for up to three months each in connection with the birth, first-time adoption or permanent fostering of a

child. This right must be used by each parent. Furthermore, such parents have a joint right to receive a birth grant for a further three months; this may be paid to either parent or divided between both.

In addition to the rights described above, all parents now have the right to take 13 weeks' leave (parental leave) in order to care for their children. This right may not be transferred between the parents, and they are able to take this parental leave either in one continuous stretch or in shorter periods, or by reducing their working proportion. The right to take parental leave expires when the child reaches the age of 8 years. Parental leave is unpaid.

The employment relationship between employee and employer remains unchanged during maternity/paternity leave and parental leave, and employees have the right to return to their jobs at the end of the period. If this is not possible, they are entitled to comparable positions with the employer in accordance with their employment contracts. Employees are also protected under the act against redundancies on the grounds of taking maternity/paternity or parental leave, and the same applies to redundancy measures affecting pregnant women and women who have recently had children. An employee who violates the provisions of the act is liable to pay damages under the general rules.

4.4.3 Other Examples of the Influence of EU Law

As stated earlier EU law has influenced the Icelandic labour market to a certain extent. The directives of the EU, that have become a part of the EEA Agreement, have generated much development in Icelandic labour affairs and the directives have either been included in laws or in collective agreements.

The Act no. 27/2000 Prohibiting Redundancies due to Family Responsibilities

The Prohibition on Redundancies due to Family Responsibilities Act, no. 27/2000, entered into force in the spring of 2000. Under the act, a person may not be made redundant solely because of the family responsibilities he/she bears.

Three principal conditions must be met to demonstrate the existence of family responsibilities on the part of an employee. Firstly, the responsibilities must be towards the employee's own children, spouse or close relatives. Secondly, the person or persons concerned must live in the employee's own home, and thirdly, the person or persons involved must need the care or guardianship of the employee himself in connection with illness, disability or comparable circumstances. All three conditions must be met in order for the employee to be regarded as bearing responsibility for the relevant individuals in the sense of the act. The act is substantially based on the ILO's Workers with Family Responsibilities Convention, no. 156.

The Collective Redundancies Act, no. 63/2000

A new Collective Redundancies Act, no. 63/2000, based on the Council Directive 98/59/EC, on the approximation of the laws of the member states relating to collective redundancies, came into force in 2000, replacing act no. 95/1992. The act covers collective redundancies announced by employers and

affecting workers for reasons that they are in no way responsible for. Collective redundancies are also defined in the act in terms of the minimum number of employees who are to be made redundant. The Act specifies the duty of the employer regarding information and consultation with the employees' shopsteward or other representative if collective redundancies are planned. In addition, the employer is to give the employees' representative all relevant information concerning the redundancies. Finally, the employer is required to inform the regional employment exchange in the relevant area of the proposed redundancies.

Other Legislation

The Wage Guarantee Fund Act no. 53 /1993 is another example of reforms in connection with European legislation, and refers to Council Directive 80/987/EEC (Act 53/1993). Other directives that have been adopted through law or general agreements in Iceland are Council Directive 77/187/EEC, on the approximation of the laws of the member states relating to the safeguarding of employees´ rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (Act 77/1993), Council Directive 91/533/EEC on an employer´s obligation to inform employees of the conditions applicable to the contract or employment relationship (general agreements).

5 What Rights Have Foreigners to Work in Iceland?

Under Article 4 of Act no. 133/1994 of Employment Rights of Foreigners, foreign nationals who are not citizens of member states of the European Economic Area (EEA) and who come to Iceland for the purpose of engaging in employment are required to hold special employment permits. Employment permits are normally only issued in those occupational sectors in which there is a shortage of labour and it is not considered likely that domestic labour will be found to fill these positions. Employment permits are issued to the employer who intends to engage a foreign national in employment; after 3 years' continuous legal residence in Iceland, a foreign national may apply for an unlimited employment permit. Thus, foreign nationals who hold such unlimited permits are in the same position on the employment market as Icelandic citizens. They are no longer tied to specific employers and they are free to apply for other jobs. The main conditions on which unlimited employment permits are granted are that the applicant should previously have been granted a temporary employment permit and have acquired an unlimited residence permit in Iceland.

Under Article 8 of the Labour Market Measures Act, no. 13/1997, Iceland is a single employment area, though regional employment exchanges operate in individual areas. Under Article 14 of the same act, the regional employment offices are obliged to assist all those who have unrestricted right to engage in employment in Iceland to seek employment and to choose vocational training courses. Furthermore, they are obliged to assist employers who are seeking general information on the supply of labour to assist them in engaging workers. The services of each regional employment office are to be based on the needs of

each individual. The wording *unrestricted right to engage in employment in Iceland* refers to citizens of EEA member states in the same way as to Icelandic citizens, and to all those foreign nationals who are citizens of states other than EEA states who hold unlimited employment permits under Article 8 of the Foreign Nationals' Right of Employment Act, no. 133/1994.

Under Article 4 of the Act no. 13/1997, the Directorate of Labour supervises the regional employment offices and co-ordinates their activities. It also gives the staff of the regional employment offices professional assistance and education, obtains information from the offices on the employment situation, unemployment levels and employment prospects, processes data from the regional offices and conveys its conclusions, recommendations and proposals on labour market measures to the board of the Directorate of Labour, monitors employment trends overseas, conveys information about that trend to the relevant parties and conveys information on the Icelandic labour market to foreign parties in accordance with Iceland's international undertakings in this area.

The Icelandic Parliament is working on a revision of the act, and the purpose is to improve the legal status of foreign workers, i.e. concerning insurance rights in the first six months of their work.

6 Conclusion

The Icelandic labour market is in many ways on crossroads. The new EU influence has greatly improved the legislation for the working class. On the other hand the strength of the trade unions has diminished and the question of membership has been brought to court in several law suits during the last years. New industry has emerged in the country, high tech, genetic and pharmacy research projects with a lot of young academics, well paid men and women who emphasize other qualities than the older generation. This will change the whole scene in the coming years. The rights and obligations of the individual will be focused on. The unions will play a larger part in assisting the individual workers to gain and retain their rights more than in establishing major strikes.

This calls for a new approach with a different focus. Some unions have taken on the task, i.e. the Union of Office Workers, others have not.