

**Response from Iceland to a Questionnaire concerning the practical operation of the Convention and views on possible recommendations.**

**(1) The Role and functioning of Central Authorities**

1. *Have any difficulties arisen in practice in achieving effective communication or co-operation with other Central Authorities, as set out in Article 7 of the Convention ?*

The only difficulty in communications with other Central Authorities that have caused delays and harmed the effective procedures of cases between Iceland and other states is the language. The fact that reservations can and have been made to the use of either English or French causes delays and costs in having even the simplest messages translated. For example, France made a reservation to the use of English and Iceland made a reservation to the use of French. This calls for translation work which both causes delays and expences.<sup>1</sup>

2. *Have any of the duties of Central Authorities, as set out in Article 7, raised any problems in practice?*

No.

3. *What measures are taken by your Central Authority or others to secure the voluntary return of a child, or to bring about an amicable resolution of the issues (Article 7) ? Do these measures lead to delay ?*

In every incoming case, unless otherwise requested, the first thing the Central Authority does is to contact the abductor and give a very short time to respond to the question whether he/she is willing to return the child. It depends on the reaction to that question whether more is done to try to reach an agreement about the return of the child. In good co-operation with the Central Authority of the requesting State, children have been returned as a result of negotiations, mediated by the Central Authority of both States, much sooner than would have been possible to have a court order of return. If no base for agreement is felt in the immediate answer from the abductor, no more time is spent to try to reach

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<sup>1</sup> No one working at the office of the Central Authority of Iceland knows French well enough to use it as a working language. For the majority of Icelanders, English is the third language following Icelandic and Danish, then German normally is the fourth and only few know French very well.

such an agreement, but in every case in court the judge has an obligation to try to reach a settlement between the parties.

4. *What measures does your Central Authority take to provide or facilitate the provision of legal aid and advice in Hague proceedings, including the participation of legal counsel and advisors (Article 7g) ? Do these measures result in delays in your own jurisdiction or, where cases originate in your country, in any of the requested jurisdictions ?*

Every applicant in an incoming case is appointed a lawyer and also made aware of the reservation Iceland has made to the Convention regarding expenses. It is introduced that applicants can apply for free legal aid, which is only granted if the applicant's financial status recommends it. If an applicant chooses to apply for free legal aid the lawyer assists in that proceedings. That might cause some delay, but usually not a considerable delay. The lawyer appointed assists the applicant through the entire procedure of the case. His fee and other costs, e.g. translations, are either paid by the legal aid or, if no free legal aid has been granted, by the Central Authority, which later collects the costs from the applicant, cf. Article 19, par. 2, of the Act on the Recognition and Enforcement of Foreign Decisions on the Custody of Children and the Return of Abducted Children, etc. No. 160, 27th December 1995.<sup>2</sup> The Icelandic Central Authority has no experience so far of such delays in requested jurisdictions.

5. *Does your Central Authority represent applicant parents in Hague proceedings? If so, has this role given rise to any difficulties or conflicts, for example with respect to other functions carried out by your Central Authority?*

No, a lawyer is appointed for court proceedings.

6. *What obligations does your Central Authority have, and what measures does it take, to ensure that a child returned to your country from abroad receives appropriate protection, especially where issues of (alleged) abuse or violence have arisen? In particular, does your Central Authority:*
- a. *ensure that appropriate child protection bodies are alerted;*
  - b. *provide information to either parent in respect of legal, financial, protection and other resources in your State;*
  - c. *facilitate contact with bodies providing such resources;*
  - d. *assist in providing any necessary care for the child pending custody proceedings;*
  - e. *provide any other support, advice or information to a parent who accompanies the child on return;*

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<sup>2</sup> Article 19, paragraph 2 of Act no. 160/1995:

"The Treasury shall pay expenses incurred by the applicant in the processing of a case in Iceland in connection with the return of a child under the Hague Convention to the extent that these costs are not recovered from the applicant."

- f. *provide any assistance in ensuring that undertakings attached to a return order are respected.*

So far the Icelandic Central Authority has had no cases where such measures were, to its knowledge, necessary to be taken on the behalf of the Central Authority. No requests or suggestions have been made to the Central Authority to take such measures, but the Central Authority is well aware of its duties in regard of this issue and both can and will, if concerns are raised, take the measures mentioned in 6. a-f. The duties to intervene and assist are also stipulated in the general Icelandic Law on Administrative Procedures, no. 37/1993, and in the Children and Youth Protection Act, no. 58/1992, the latter accompanies this document in English translation.

7. *What arrangements does your Central Authority make for organising or securing the effective exercise of rights of access (Article 7 f)? In particular:*
- a. *provide information or advice;*
  - b. *facilitate the provision of legal aid or advice;*
  - c. *initiate or assist in the institution of proceedings, where appropriate, on behalf of the applicant;*
  - d. *assist in ensuring that the terms or conditions on which access has been ordered or agreed are respected;*
  - e. *assist in cases where modification of existing access provisions is being sought.*

So far the Icelandic Central Authority has only had informal requests to facilitate access for a parent who has an application pending return procedures (footnote 13, a). This has been peacefully resolved with help from the appointed lawyers, the contact has in those cases taken place in Iceland or through telephone.

We have had no access requests in situations mentioned in footnote 13, b, c and d. About access in general, see section (4) below.

8. *Please comment on any developments in relation to the maintenance of statistics concerning the operations of your Central Authority. Has your Central Authority been able to return to the Permanent Bureau annual statistics in accordance with the Hague standard forms? If not, please explain why?*

In Iceland the cases are very few and the Central Authority has records of them all, statistics from courts can easily be gathered, so keeping statistics is easy. Recently the Permanent Bureau has been sent the Hague standard forms with the statistics for recent years.

9. *Can you affirm or reaffirm, as the case may be, support for the conclusions reached by the first, second and third Special Commissions, as set out in footnotes 11 and 12?*

Yes.

10. *Would you support any other recommendations in respect of the particular functions which Central Authorities do or might carry out, especially with regard to the matters raised in questions 6 and 7 above?*

The Icelandic Central Authority will consider every suggestion.

**(2) Judicial proceedings, including appeals and enforcement issues, and questions of interpretation.**

1. *How many courts and how many judges potentially have jurisdiction to hear an application for the return of a child? If there is more than one level of jurisdiction at first instance, please specify the number of courts and judges for each level.*

See Act on the Judiciary, no. 15/1998, which accompanies this document in English translation. There are two levels of general courts, a district court and the Supreme Court. The district courts in Iceland are 8 with the total number of 38 judges and the Supreme Court has 9 judges. All these courts have jurisdiction in Hague cases.

2. *Do you have any special arrangements whereby jurisdiction to hear return applications is concentrated in a limited number of courts? Are such arrangements being contemplated?*

No.

3. *What measures exist to ensure that Hague applications are dealt with promptly (Article 7) and expeditiously (Article 11)?*

Stipulated by Law, no. 160/1995, Article 16.<sup>3</sup>

*In particular:*

*a. is it possible for the application to be determined on the basis of documentary evidence alone?*

Yes, a judge can decide to do so if there are grounds for such decision.

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<sup>3</sup> Article 16 of Act No 160/1995: "Cases concerning the enforcement of decisions under the European Convention and the return of children under the Hague Convention shall be processed as quickly as possible.

If no decision on the return of a child under the Hague Convention has been taken within six weeks of the receipt of an application by a district court, the court shall explain the reasons for the delay if the applicant requests it to do so."

*b. what special measures/rules exist to control or limit the evidence (particularly the oral evidence) which may be admitted in Hague proceedings?*

None, except that the judge controls proceedings when oral evidence is given.

*c. who exercises control over the procedures following the filing of the application with the court and prior to the court proceedings, and how is that control exercised?*

The judge controls the proceedings from the time the case is filed with the court until a decision has been reached. The appointed lawyer for the applicant reports to the Central Authority regularly and consults with the Central Authority about the case at hand. The Central Authority will at that time assist, if needed, in providing documents from the applicant or from the Central Authority of the requesting state. The Central Authority can also as the case may be inquire the court of the reasons for a delay over six weeks.

*d. what appeal is possible from the grant or refusal of a return application, within what time limits do appeals operate, on what grounds and subject to what limitations?*

An appeal to the Supreme Court is possible within 14 days, on any grounds and subject to no limitations.

4. *In what circumstances, and by what procedures/methods, will a determination be made as to whether a child objects to being returned?*

In all circumstances of the cases dealt with so far, where the objection defence has been raised, a determination has been made on that issue. The views of a child are normally sought through an interview carried out by a psychologist, who reports to the judge. It is obligatory under law 160/1995 to examine the views of the child before a decision is made.<sup>4</sup>

*In what circumstances in practice will the objections of the child be held to justify a refusal to return? (Indicate statutory basis)*

Under law no. 160/1995<sup>5</sup> the return of a child may be refused if the child is opposed to being returned and has attained an age and degree of maturity at

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<sup>4</sup> Article 17 of Act No 160/1995: "Before taking a decision on the enforcement of a decision under the European Convention or the return of a child under the Hague Convention, the district court judge shall ascertain the views of the child if he has attained the age and degree of maturity at which it is appropriate to take account of his views. The provisions of paragraph 4 of Article 34 of the Children's Act shall apply when the child's views are ascertained."

<sup>5</sup> Article 12, par.3 of Act 160/1995: "The return of a child may be refused if:[...]  
3. the child is opposed to being returned and has attained an age and degree of maturity at which it is appropriate to take account of his views, [...]"

which it is appropriate to take account of his views. Recent Supreme Court rulings indicate that the opposition of the child must be very strong, it does not justify a refusal of a return that the child would rather stay in Iceland (ages 9 and 11, two cases in the year 2000), but in an earlier case (age 11, year 1998) return was refused on the grounds of the will of the child, which was held not to have been influenced by the abducting parent.

5. *Where the person opposing return raises any other defences under Article 13 or Article 20, what are the procedural consequences? What burden of proof rests on the defendant? Does the raising of defences under Articles 13 or 20 in practice lead to delay? What measures, if any, exist to reduce such delay to a minimum?*

The judge in each case decides whether such defences raised are supported by sufficient evidence to justify the delay it causes to gather more information. Defences under Article 20 have never been raised and defences under Article 13 have never lead to a refusal of a return or notable delays. No special measures exist, except for obligations for expeditious actions under Article 16 of Law no. 160/1995 and Article 11 of the Convention.

6. *Please specify the procedures in place in your jurisdiction to ensure that return orders are enforced promptly and effectively?*

According to Article 13, par. 2, of Act no 160/1995<sup>6</sup>, enforcement procedures under Article 75, par. 3, of the Children's Act no 20/1992<sup>7</sup> apply when a decision in a Hague case is enforced.

*Are there circumstances (apart from pending appeals) in which execution of a return order may not be effected.*

No.

*Do return orders require separate enforcement proceedings? Is there appeal from such proceedings?*

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<sup>6</sup> Article 13, paragraph 2, Act no 160/1995:

"The provisions of Article 63 of the Children's Act concerning court sessions and of Article 75 of the same act concerning the implementation of decisions relating to custody shall apply to the procedure in cases under this Act when a decision under the European Convention is enforced or a child is returned under the Hague Convention."

<sup>7</sup> Article 75, paragraph 3, of the Children' Act no 20/1992:

" If enforcement proceedings must be carried out as requested by the petitioner the magistrate shall request the presence of a representative of the child welfare committee and the representative of the child, if appointed, cf. Article 34, Paragraph 5. The magistrate may appoint a person to represent the child, if this has not already been done. As far as assistance is provided by police in the course of the enforcement proceedings, police personnel shall generally wear civil clothes. The enforcement proceedings shall, as far as possible, be conducted with a view to protect the child from undue strain."

Only administrative and on a documentary basis, i.e. a request is made to a magistrate, who decides on the time of enforcement (without a delay) and notifies the counterparty. There is no appeal available.

*Are such enforcement procedures routinely invoked, and are they successful in achieving the enforcement of return orders?*

The enforcement procedure is invoked by a simple request and yes, they are successful.

7. *Would you support any of the following recommendations?*

*a calling upon States Parties to consider the considerable advantages to be gained from a concentration of jurisdiction in a limited number of courts.*

Yes, though not practical for Iceland, with only 8 jurisdictions as is.

*b underscoring the obligation of States Parties to process return applications expeditiously, and making it clear that this obligation extends also to appeal procedures.*

Yes.

*c calling upon trial and appellate courts to set and adhere to timetables that ensure the speedy determination of return applications.*

Yes.

*d calling for firm judicial management, both at trial and appellate levels, of the progress of return applications.*

Yes. The Central Authority in Iceland welcomes as a measure to reach that goal the suggestion made by the Permanent Bureau for direct involvement of the judiciary in the Special Commission 2001.

*e calling upon States Parties to enforce return orders promptly and effectively.*

Yes.

*f recommending that the “grave risk” defence under Article 13 should be narrowly construed.*

Yes.

*g proposing any other measures (please specify) to improve the efficiency and speed with which applications are processed and orders enforced.*

The Icelandic Central Authority will consider all suggestions made.

8. *Please indicate any important developments since 1996 in your jurisdiction in the interpretation of Convention concepts, in particular the following:*

- *rights of custody (Article 3 a and Article 5a);*
- *habitual residence (article 3 a and Article 4);*
- *rights of access (Article 5b);*
- *the actual exercise (of rights of custody) Article 3 b and Article 13a);*
- *the settlement of the child in its new environment (Article 12);*
- *consent or acquiescence to the removal or retention of the child (Article 13 a);*
- *grave risk (Article 13b);*
- *exposure to physical or psychological harm (Article 13 b);*
- *intolerable situation (Article 13 b);*
- *fundamental principles relating to the protection of human rights and fundamental freedoms (Article 20).*

There haven't been any notable changes in the interpretation of the above since 1996, there are only few cases and only few of the above mentioned concepts have been considered by the courts in Iceland.

**(3) Issues surrounding the safe and prompt return of the child (and the custodial parent, where relevant)**

1. *To what extent are your courts, when considering a return application, entitled and prepared to employ “undertakings” (i.e. promises offered by, or required of the applicant) as a means of overcoming obstacles to the prompt return of a child? Please describe the subject-matter of undertakings required/requested. At what point in return proceedings are possible undertakings first raised, and how?*

So far the Icelandic Central Authority has had no cases where undertakings have been considered.

2. *Will your courts/authorities enforce or assist in implementing such undertakings in respect of a child returned to your jurisdiction? Is a differentiation made between undertakings by agreement among the parties and those made at the request of the court?*

The Icelandic Central Authority has no experience in this regard. It depends on which undertakings are decided and how those comply with domestic law, e.g. the Child Protection Law.



3. *To what extent are your courts entitled and prepared to seek or require, or as the case may be to grant, safe harbour orders or mirror orders (advance protective orders made in the country to which the child is to be returned) to overcome obstacles to the prompt return of a child?*

The Icelandic Central Authority has no experience of cases where this has been an issue.

4. *Is consideration being given to the possible advantages of the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children, in providing a jurisdictional basis for protective measures associated with return orders (Article 7), in providing for their recognition by operation of law (Article 23), and in communicating information relevant to the protection of the child (Article 34)?*

No decision has been made regarding that Convention.

5. *Have you experience of cases in which questions have arisen as to the right of the child and/or the abducting parent to re-enter the country from which the child was abducted or unlawfully retained? If so, how have such issues been resolved?*

No.

6. *Please comment on any issues that arise, and how these are resolved, when criminal charges are pending against the abduction parent in the country to which the child is to be returned.*

The Icelandic Central Authority has no experience of cases where this has been an issue.

7. *Please comment on any experience, as a requesting or as a requested State, of cases in which the deciding judge has, before determining an application for return, communicated with a judge or other authority in the requesting State and, if so, for what purposes. What procedural safeguards surround such communications?*

The Icelandic Central Authority has no knowledge of such direct communications between judges. Communications have taken place through the Central Authority, for the purpose of attaining a declaration under Article 15 of the Convention.

8. *Has an appointment been made in your country of a judge or other person competent to act as a focus or channel for communication between judges at the international level in child abduction/access cases?*

No.

9. *Where a child is returned to your Country, what provisions for legal aid and advice exist to assist the accompanying parent in any subsequent legal proceedings concerning the custody or protection of the child?*

Only general administrative rules, authorities have an obligation to provide legal advice. As for court procedure, general rules of free legal aid apply, depending on the financial status of the parent. Regarding protection of the children, the Child Protection Law (no 58/1992) apply to all children staying in Iceland.

10. *Where a custody order has been granted in the jurisdiction of, and in favour of, the left behind parent, is the order subject to review if the child is returned, upon application of the abducting parent?*

Yes, under article 35 of the Children's Act, a custody order can be changed if the circumstances have changed (which would here be the case) and it is in the best interests of the child.<sup>8</sup>

11. *Would you support any of the following recommendations?*

- a *that Contracting States should consider ratification of or accession to the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children, to provide a basis for jurisdiction, recognition and enforcement, and co-operation in respect of measures of protection of a child which are attached to return orders.*

No such statements can be made, since it has not been decided on whether or not Iceland will accede to it.

- b *that Contracting States should provide swift and accessible procedures for obtaining, in the jurisdiction to which the child is to returned, any necessary protective measures prior to the return of the child.*

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<sup>8</sup> Article 35, par 1, of the Children's Act, no 20/1992:

"If a parent requests that an agreement or a resolution of a court or the Ministry of Justice relating to custody be changed, the matter shall be resolved by a court in accordance with the provisions of Chapter VIII, or by the Ministry of Justice if both parties agree on such procedure. A request according to the present Paragraph shall only be granted if change is deemed advisable by reason of changed circumstances and with regard to the child's interests and needs. The provisions of the following Paragraph shall, however, apply to a parent's request for the cancellation of an agreement relating to joint custody."

Yes.

- c that Contracting States should take measures to ensure that, save in exceptional cases, the abducting parent will be permitted to enter the Country to which the child is returned for the purpose of taking part in legal proceedings concerning custody or protection of the child.*

Yes.

- d that Contracting States should provide a rapid procedure for the review of any criminal charges arising out of a child's abduction/unlawful retention by a parent in cases where the return of the child is to be effected by judicial order or by agreement.*

Yes.

- e that Contracting States should nominate a judge or other person or authority with responsibility to facilitate at the international level communications between judges or between a judge and another authority.*

Yes.

- f that the Permanent Bureau of the Hague Conference on Private International Law should continue to explore practical mechanisms for facilitating direct judicial communications, taking into account the administrative and legal aspects of this development.*

Yes.

**(4) *Procedures for securing cross-frontier access/contact between parent and child***

1. *What provisions for legal aid/advice/representation in respect of a foreign applicant for an access order exist in your jurisdiction?*

In general there is only an administrative procedure in access cases. Provisions about free legal aid only apply to court proceedings. According to the law on administrative procedure, no. 37/1993, administration personnell has a strong obligation to provide legal advice and assist the parties, no different rules apply for foreigners.

2. *On what basis do your courts at present exercise jurisdiction to:*

*a grant and*

*b modify access/contact orders?*

Courts have no jurisdiction in access cases except in connection with a return case. In Article 18 of the Act No. 160/1995 a court is permitted in a return case to make a ruling on the parents' right of access to the child during the time that the child is in care, and set specific conditions relating to access. This is limited to the time when a case concerning a return application of that child is before the court.<sup>9</sup>

Decisions about access are made by administrative authorities in Iceland and not by courts. The primarily statute about access is Article 37 of the Law in Respect of Children, no 20/1992.<sup>10</sup> The jurisdiction of the administrative authorities in cases concerning access is stipulated in Article 65 of the same Act.<sup>11</sup>

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<sup>9</sup> Article 18 of Act 160/1995: "When processing a case under the European Convention or the Hague Convention, the district court judge may, if requested, and if need demands, decide that the child shall be placed with one of the parents or in a neutral place through the agency of, and under the supervision of, the child welfare authorities. Such a decision, expressed in the form of a ruling, shall remain valid until the case is resolved. Such a ruling may include provisions on the parents' right of access to the child during the time that the child is in care, and set specific conditions relating to access.

Appeals may be lodged with the Supreme Court against rulings under paragraph 1."

<sup>10</sup> Right of Access. Art. 37 of the Childrens' Act no. 20/1992:

"A child has the right of associating with the parent not having custody, who also has the right to associate with the child. The parent has the duty of maintaining association and company with the child and of observing any relevant conditions in that respect.

If the parents agree among themselves how such right of access shall be exercised this right shall be exercised accordingly, provided this is not, in the opinion of the magistrate, contrary to the interests of the child.

In case the parents disagree on the right of access the magistrate shall, upon the request of a parent, define what the right of access entails and how it shall be exercised.

The magistrate may refrain from such definition and may furthermore amend or invalidate a decision or an agreement concerning right of access if such a measure is deemed to serve best the interests of the child. In case the magistrate deems that by reason of specific considerations the child's association with a parent is contrary to the child's interest, the magistrate may determine that right of access is suspended. [In exceptional circumstances the magistrate may, at the request of a parent who does not have the child's custody, define that parent's right to maintain contact with the child by correspondence, telephone and similar means.]1 )

In the course of a custody procedure a magistrate may, if requested by the parent with whom the child does not reside, determine provisionally in accordance with the basic principles of Paragraphs 1 and 3 of this Article what access the child shall have to that parent until the matter of custody has been resolved.

If one or both parents of a child have died, or if a parent is prevented from exercising the duty of associating with a child, the close relatives of a deceased parent or a parent who is prevented from exercising the duty of association may request that a magistrate determine the extent to which they may associate with the child. The magistrate shall conclude the matter in the manner he deems to serve best the child's interests. In the matter of exercising the right of access the opinion of the child welfare committee shall be sought when deemed appropriate, as well as the assistance of the committee or a specially appointed supervisor. The principles of Article 34, Paragraph 4, shall apply in this respect, as applicable."

<sup>11</sup> The Childrens' Act no 20/1992: Resolution of Issues under this Law by Administrative Procedure. Competence. Article. 65:

"Administrative authorities shall be competent to resolve issues involving connections to foreign countries under the following conditions:

a. if the child to whom the matter relates resides in Iceland,

3. *What provisions exist for the recognition and enforcement in your jurisdiction of foreign access orders, in particular where the order has been made by a court or other authority of the country of the child's habitual residence? In this context is consideration being given to implementation of the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children?*

Foreign access orders are in general recognized insofar they fall within the scope of agreements that Iceland and the state in question are parties to (e.g. the 1980 European Custody Convention and the Nordic Conventions). No decision has been made regarding the 1996 Convention.

4. *What, if any, provision exists to ensure that cross-frontier access applications (including appeals) are processed expeditiously?*

There is a general provision for expeditious process (article 9), in the Act on the administrative procedure, no. 37/1993.

5. *What facilities/procedures are in place to promote agreement between parents in international access/contact cases?*

A mediation procedure, supervised by a specialist, will be available in all jurisdictions in access cases, following a change proposed to the Children's Act that will, if passed by the Icelandic Parliament, enter into force this year.

6. *Do your courts in practice accept a presumption in favour of allowing access/contact to the non-custodial parent?*

As mentioned above, access is not decided by courts. The presumption mentioned is stipulated in Article 37, paragraph 1, of the Childrens' Act, see footnote 10.

7. *What conditions are likely to be imposed on access in respect of a non-custodial abducting parent?*

The Icelandic Central Authority has no experience of such cases.

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b. if the party against whom a request is directed resides in Iceland,  
 c. if a judicial decision or judgment in a custody or paternity case has been rendered in this country the matter of maintenance payments relating to the same child may also be resolved, provided a request to this effect is submitted within one year from the date of the decision or judgment.  
 The provisions of international agreements to which Iceland is a party shall, however, take precedence over the provisions of Paragraph 1 above."

8. *What information concerning services and what other facilities are available to overseas applicants for access/contact orders?*

No applications for access only have yet been received by the Icelandic Central Authority, and thus there is no practical experience of access under the Convention, except insofar access has been facilitated in connection with a return case.

Applications about access can be forwarded by the Central Authority to the administrative body in the jurisdiction where the child is staying or lives and access procedure can be facilitated and administrative procedures initiated by an applicant when the conditions allow in a case of application for access. The Central Authority has, as an administrative body, obligations to provide advice and assistance under the Act on Administrative procedure no. 37/1993, in addition to its obligations under Article 21 of the Convention.

The Childrens' Act no. 20/1992 and Act no. 160/1995, on the implementation of the Convention is available in Icelandic and English on the homepage of the Central Authority, i.e. the Ministry of Justice. Also, at the same site, the Act on Administrative procedures, no 37/1993, is available in Icelandic.

9. *What problems have you experienced and what procedures exist in your country as regards co-operation with other jurisdictions in respect of:*
- a the effective exercise of rights of access in your/in the other jurisdiction;*
  - b the granting or maintaining of access rights to a parent residing abroad/in your jurisdiction;*
  - c the restriction or termination of access rights to a parent residing abroad/in your jurisdiction.*

The Icelandic Central Authority has had no cases and thus no experience of a.-c. under the Convention.

10. *What, if any, measures are available to your courts to help guarantee adherence by parents to access conditions (e.g. financial guarantees, surrender of passports)?*

None.

11. *How in practice are access orders enforced?*

By financial penalties, according to Article 38 of the Children's Act.<sup>12</sup> In case of a foreign order, recognized in Iceland on the basis of an agreement Iceland is a party to, an order can be enforced in the same way it could be enforced in the state where it was made.

12. *Would you support recommendations in respect of any of the particular issues raised in the preceding questions? If so, please specify.*

The Icelandic Central Authority will consider all suggestions.

**(5) Securing State compliance with Convention obligations**

1. *Please comment upon any serious problems of non-compliance with Convention obligations of which your authorities have knowledge or experience and which have affected the proper functioning of the Convention.*

The Icelandic Central Authority has no experience or knowledge of such problems.

2. *What measures, if any, do your authorities take, before deciding whether or not to accept a new accession (under Article 38), to satisfy themselves that the newly acceding State is in a position to comply with Convention obligations?*

No measures have been taken. Iceland is an acceding State.

3. *Would you favour the drawing up of a standard questionnaire to be submitted by Contracting States to each newly acceding State with a view to assisting them to decide whether or not to accept the accession? What questions would you include?*

Yes. In particular about domestic legislation.

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<sup>12</sup> Article 38 of the Childrens' Act no. 20/1992:

"If a parent having custody of a child prevents the other parent from exercising the right of access to the child in accordance with a previous determination the magistrate may, upon that other parent's request, order the custodial parent to desist, subject to daily penalties amounting up to kr. 5,000. Daily penalties shall not be imposed until the period for appeal according to Article 74 has passed or, if the matter has been appealed to the Ministry, until the Ministry's decision concerning right of access has been rendered. Daily penalties shall be imposed by formal decision, and the person having custody of the child shall be afforded the opportunity of expressing his views before the decision is rendered. A determination of daily penalties shall be effective for three months at a time for each day that passes from the date of the decision until any hindrances are removed. The daily penalties shall be cancelled when the magistrate deems that access is unhindered. The daily fines may be collected by direct enforcement proceedings in accordance with a petition of the person whose right of access is hindered, and shall accrue to the State Treasury. The maximum amount of daily penalties according to the foregoing shall be subject to changes in accordance with the Credit Terms Index as effective on 1 July 1992. Other legal remedies can not be employed to enforce right of access."

9. *Are you in favour of an increase in the number of Special Commissions (or similar meetings) to review the practical operation of the Convention? Would you also favour the idea that additional Special Commissions should review particular aspects of the operation of the Convention (for example, the problems surrounding the protection of rights of access, or the issues that arise when allegations of abuse or domestic violence are raised in return proceedings or the practical and procedural issues surrounding direct communications between judges at the international level, or the enforcement of return orders by Contracting States)?*

No comments on this issue.

5. *Are there any other measures or mechanisms which you would recommend:*
- a. *to improve the monitoring of the operation of the Convention;*
  - b. *to assist States in meeting their Convention obligations;*
  - c. *to evaluate whether serious violations of Convention obligations have occurred?*

No suggestions of a.-c.

**(6) *Miscellaneous and general***

1. *Have you any comments or suggestions concerning the activities in which the Permanent Bureau engages to assist in the effective functioning of the Convention, and on the funding of such activities?*

No.

2. *Are there any additional ways in which the Permanent Bureau might provide assistance? Do you favour the preparation of a list of potential Permanent Bureau functions and tasks that could only be performed if the Permanent Bureau were to receive additional financial and human resources either through approval of an increased budget or through voluntary contributions to accounts set aside for that purpose?*

No comments on this issue.

3. *Would you favour a recommendation that States Parties should, on a regular annual basis, make returns of statistics concerning the operation of the Convention on the standard forms established by the Permanent Bureau, and that these statistics should be collated and made public (for example on the Hague Conference website) on an annual basis?*



Yes.

4. *Would you favour a recommendation supporting the holding of more judicial and other seminars, both national and international, on the subject-matter of the Convention?*

Yes.

5. *Are there any particular measures which you would favour to promote further ratifications of and accessions to the Convention?*

The Icelandic Central Authority has no suggestions of any particular measures.

6. *Please provide information concerning any bilateral arrangements made with non-Hague States with a view to achieving all or any of the objectives set out in Article 1. of the Convention.*

No such agreements are in force between Iceland and non-Hague states.

7. *Do you have any comments on the following proposition:*

*“Courts take significantly different approaches to relocation cases, which are occurring with a frequency not contemplated in 1980 when the Hague Child Abduction Convention was drafted. Courts should be aware that highly restrictive approaches to relocation can adversely affect the operation of the Hague Child Abduction Convention.”*

No comments, not relevant in Iceland.<sup>13</sup>

Reykjavík, 2 February 2001  
 Kristrun Kristinsdottir

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<sup>13</sup> A parent doesn't need to apply to a court for "relocation" permit under Icelandic law. A parent who is the sole custodian can move to another country with the child if he/she chooses to do so. Parents who are not married and do not live together can only have joint custody of their child if they agree on it and agree on issues concerning the child. If parents have joint custody of a child and the parents disagree, for example about one of them moving with the child to another country, a decision has to be made as to which one of the parents shall have the sole custody.

Translated from the Icelandic

Act on the Recognition and Enforcement of Foreign Decisions  
on the Custody of Children and the Return of Abducted  
Children, etc.

No. 160 27th December 1995

**Chapter I. Scope.**

Article 1. Articles 3-10, Article 13, Article 14, paragraph 1 of Article 16, Article 17, Article 18, paragraph 1 of Article 19, Article 21, Article 22 and paragraph 1 of Article 23 of this Act shall apply to dealings between Iceland and states which are members of the European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children done at Luxembourg on 20th May 1980 (hereinafter referred to as the European Convention). The aforementioned Articles do not apply regarding Denmark, Finland, Norway or Sweden to the extent that special rules apply to dealings between Iceland and those states.

Articles 3-5, Articles 11-13, Articles 15-18, paragraph 2 of Article 19 and Articles 20-23 of this Act shall apply to dealings between Iceland and states which are signatories to the Convention on the Civil Aspects of International Child Abduction done at The Hague on 25th October 1980 (hereinafter referred to as the Hague Convention).

Article 2. The Minister of Justice may decide that this Act shall be applied to dealings between Iceland and states which are not members of the European Convention or signatories to the Hague Convention.

Article 3. This Act shall apply to children under the age of 16.

Article 4. For the purposes of this Act, the term "decision" refers to judgements, rulings and other decisions taken by judicial or administrative authorities, and also to settlements made in court and settlements that have been sanctioned by administrative authorities.

**Chapter II. Central Authorities.**

Article 5. The Ministry of Justice is the central authority for the purposes of the European Convention and the Hague Convention. As the central authority, the ministry shall:

1. receive applications made on the basis of the conventions and transmit them to the relevant administrative authorities,
2. co-operate with central authorities in other states which are members of or signatories to the conventions, and
3. carry out the other duties which central authorities are required to carry out under the conventions.

### **Chapter III. Recognition and Enforcement under the European Convention.**

Article 6. A decision on custody of, place of residence of, or right of access to, a child taken in a state which is a member of the European Convention shall be recognized in Iceland. In response to an application, it shall be permitted to enforce such a decision in Iceland if it is permitted to enforce it in the state where it was taken (the State of origin).

If no decision under paragraph 1 which could be enforced in the State of origin had been taken at the time when the child was taken to another country, then any decision taken in a Contracting State at a later date shall be regarded as the equivalent of a decision under paragraph 1 if it states that the removal of the child was improper.

Article 7. An application for recognition or enforcement of a decision shall be rejected if:

1. it is manifestly not in conformity with the fundamental principles of Icelandic legislation on the legal status of families and children,
2. the decision is, in the light of changed circumstances, manifestly no longer in accordance with the best interests of the child;
3. the child was an Icelandic citizen, or was habitually resident in Iceland, when the case was brought before a judicial authority in the State of origin, or when the administrative authorities there received the application, without the child having had comparable connections with that state, or if he held citizenship of both the State of origin and Iceland and was habitually resident in Iceland,
4. the child has the right to determine his place of residence himself under the laws of the state where he holds citizenship or is habitually resident, or
5. the decision is incompatible with a decision that has been taken in Iceland in a case which was initiated before the application for recognition or enforcement was submitted, providing that rejection is considered in the best interests of the child. In this connection, a decision taken in a third state shall have the same validity as a decision taken in Iceland, providing it can be enforced in Iceland.

Article 8. A decision taken in the absence of the defendant may only be recognized or enforced if:

1. the defendant himself was demonstrably summonsed to appear before the relevant judicial or administrative authority with sufficient notice to enable him to defend his interests, or if this was not possible because the defendant concealed his whereabouts from the plaintiff and
2. the judicial or administrative authority which took the decision was competent to do so in terms of the place of habitual residence of the defendant, the last common place of habitual residence of the parents of the child, providing that one of them is still habitually resident there, or the place of habitual residence of the child.

Article 9. Recognition or enforcement of a decision may be deferred by a ruling if:

1. an appeal against the decision has been lodged with a higher judicial or administrative authority in the State of origin in accordance

with the ordinary rules applying to appeals,  
2. proceedings regarding custody of, the place of residence of, or the right of access to, the child which were initiated before the proceedings in the State of origin are in progress in Iceland, or  
3. other proceedings regarding recognition or enforcement of another decision on custody of, the place of habitual residence of, or the right of access to, the child are in progress.

Article 10. In a case involving the enforcement of a decision on right of access, a district commissioner may take a decision on the substance of the right of access and how it is to be applied.

In accordance with the provisions of the Children's Act, an appeal may be lodged with the Ministry of Justice against a decision taken by a district commissioner. The ordinary provisions of the Enforcement Procedures Act shall apply to the review of other decisions taken by a district commissioner regarding enforcement measures.

#### **Chapter IV. Return of Children under the Hague Convention.**

Article 11. A child who has been wrongfully removed to Iceland, or is wrongfully retained in Iceland, shall, in response to an application, be returned to the person who has the right to make the application, if the child was habitually resident in a Contracting state immediately prior to his removal or retention.

Removal or retention of a child is considered to be wrongful if:

1. such conduct violates the right of the custodial party or another party, irrespective of whether he exercises that right jointly or alone, to care for the child under the laws of the state in which the child was habitually resident immediately prior to his removal or retention, and
2. the party concerned actually exercised that right when the child was removed or at the time he was retained, or would have exercised it if the wrongful conduct had not taken place.

Article 12. The return of a child may be refused if:

1. more than one year elapsed between the removal or retention of the child and the receipt by a district court of the application for his return, providing that the child has adapted to his new circumstances,
2. there is a grave risk that return would cause the child psychological or physical harm, or would otherwise place the child in an intolerable position,
3. the child is opposed to being returned and has attained an age and degree of maturity at which it is appropriate to take account of his views, or
4. return of the child is not compatible with the basic principles pertaining in Iceland to the protection of human rights.

#### **Chapter V. Procedure.**

Article 13. Where no provisions are made under this chapter, procedure regarding applications for enforcement of decisions under the European Convention or the Hague Convention shall be subject to the Enforcement Procedures Act, with the condition that an application for enforcement shall in all cases be treated by the

judicial authority under Chapter 13 of that act.

The provisions of Article 63 of the Children's Act concerning court sessions and of Article 75 of the same act concerning the implementation of decisions relating to custody shall apply to the procedure in cases under this Act when a decision under the European Convention is enforced or a child is returned under the Hague Convention.

Article 14. An application for enforcement under the European Convention shall provide information on the probable whereabouts of the child in Iceland and propose a method of returning the child. The application shall be accompanied by a certified copy of the decision and a document confirming that the conditions of Article 8 for recognition and enforcement have been met if the decision was taken in the absence of the defendant. In addition, a document shall be submitted stating that the decision is enforceable in the State of origin.

Article 15. An application for the return of a child under the Hague Convention shall provide information about the applicant, the child and the person alleged to have removed or retained the child. The application shall state the child's date of birth and probable whereabouts in Iceland. The application shall be supported with reasons.

The application shall be accompanied by the documents on which it is based.

In processing an application for return under the Hague Convention, a district court judge may decide to require the submission of a declaration by an authority in the state in which the child was habitually resident immediately prior to his removal or retention stating that the removal or retention was wrongful. However, this shall only apply where it is possible to obtain such a declaration.

Article 16. Cases concerning the enforcement of decisions under the European Convention and the return of children under the Hague Convention shall be processed as quickly as possible.

If no decision on the return of a child under the Hague Convention has been taken within six weeks of the receipt of an application by a district court, the court shall explain the reasons for the delay if the applicant requests it to do so.

Article 17. Before taking a decision on the enforcement of a decision under the European Convention or the return of a child under the Hague Convention, the district court judge shall ascertain the views of the child if he has attained the age and degree of maturity at which it is appropriate to take account of his views. The provisions of paragraph 4 of Article 34 of the Children's Act shall apply when the child's views are ascertained.

Article 18. When processing a case under the European Convention or the Hague Convention, the district court judge may, if requested, and if need demands, decide that the child shall be placed with one of the parents or in a neutral place through the agency of, and under the supervision of, the child welfare authorities. Such a decision, expressed in the form of a ruling, shall remain valid until the

case is resolved. Such a ruling may include provisions on the parents' right of access to the child during the time that the child is in care, and set specific conditions relating to access.

Appeals may be lodged with the Supreme Court against rulings under paragraph 1.

Article 19. The Treasury shall pay expenses incurred by the applicant in the processing of a case in Iceland in connection with the enforcement of a decision under the European Convention, excluding expenses arising from the removal of the child from Iceland.

The Treasury shall pay expenses incurred by the applicant in the processing of a case in Iceland in connection with the return of a child under the Hague Convention to the extent that these costs are not recovered from the applicant.

### **Chapter VI Miscellaneous Provisions.**

Article 20. When an application is submitted for the return of a child under the Hague Convention, no decision shall be taken in Iceland regarding the custody or fostering of the child until a final decision has been taken on the application for the child's return.

If the central authorities dealing with a custody or fostering case in Iceland reveal that a child is unlawfully resident in Iceland (cf. paragraph 2 of Article 11) without an application for his return having been submitted under paragraph 1 of Article 11, then no decision shall be taken in the custody or fostering case until a suitable period has passed in which such an application can be submitted.

Article 21. At the demand of the custodial party who exercises sole custody of a child, the Ministry of Justice may decide that a child who is habitually resident in Iceland has been improperly removed to another state, or that his retention in another state is improper.

In an action for the termination of joint custody, a court or the Ministry of Justice, depending on where the action is being handled, may, at the request of a custodial party, deliver a ruling stating that the child has been improperly removed to another state or that his retention in another state is improper.

A ruling under paragraphs 1 and 2 may be delivered even if it has not been possible to serve a writ, or demand, on the person against whom the demand is directed, or make him aware of it because his whereabouts are unknown and it is not possible to obtain any information about him.

An appeal may be lodged with the Supreme Court against a ruling by a district court under this Article.

Article 22. The Minister of Justice may issue further provisions on the application of this Act in the form of regulations.

Article 23. This Act shall enter into force immediately.

The provisions of the Hague Convention shall only apply to improper removal or retention of a child occurring after the validation of the Convention regarding the state in which the child was habitually resident immediately prior to his removal or retention.

Translated from the Icelandic

# Law

## in Respect of Children

No. 20 of May 22nd, 1992, c.f. Law No. 37 of April 30th, 1993,  
c. t. Law No. 23 of March 3rd, 1995.

### CHAPTER I

#### **Application.**

##### Art. 1

This Law shall apply to all children, and a separate legislation also applies to adopted children. Individual provisions of this Law also apply to step children and foster children, as further specified therein.

In the absence of statute provisions to the contrary, all children, shall have the same legal status in every respect.

### CHAPTER II

#### **The Paternity of Children.**

*A. Principles Governing the Paternity of Children born in Wedlock, and Children Born to Cohabiting Parents.*

##### Art. 2

The husband of a child's mother shall be presumed to be the child's father if the child is born to them in their marriage or so soon after the termination of marriage as to have been possibly conceived in wedlock. This does not, however, apply if the husband and wife were legally separated at the time of the child's conception.

If a mother, after the birth of her child, marries the man she alleges to be its father, he shall be presumed to be the child's father.

If the mother of a child and a man she alleges to be its father cohabit at the time of its birth according to the files of the National Registry or other unequivocal evidence, that man shall be presumed to be the child's father. The same shall apply if the mother of a child and a man she alleges to be its father start cohabiting as described above, provided the child's paternity has not been determined at that time.

##### Art. 3

A husband or a man in cohabitation who has agreed in writing and in the presence of witnesses that his wife or the woman with whom he cohabits be artificially inseminated with the seed of another man shall be deemed to be the father of a child so conceived.

*B. Recognition of the Paternity of Children to Whom the Provisions of Articles 2 and 3 Do Not Apply.*

##### Art. 4

In cases where the provisions of Articles 2 and 3 in respect of paternity do not apply, a child's paternity shall be determined by a recognition of fatherhood on the part of the man whom the child's mother alleges to be its father, as provided for in Articles 5 and 6, or by judicial resolution as provided for in Chapter VII, Part A.

##### Art. 5

If a man whom a woman alleges to be the father of her child, cf. Article 4, recognizes his fatherhood in a written declaration before a priest or a magistrate, or in a witnessed written statement, he shall be presumed to be the child's father.

A declaration of fatherhood by a man within 18 years of age shall be supported by the confirmation of his guardian.

If the mental condition of a man alleged to be a child's father is such as to make his declaration unreliable, a judicial resolution shall be obtained in the matter.

Judicial resolution shall also be obtained if it appears that other men than the alleged father have had sexual intercourse with the mother at the time of the child's conception, and the paternity of other men than the one willing to recognize his fatherhood can not be ruled out in advance.

##### Art. 6

The Ministry of Justice may decide that a recognition of fatherhood obtained abroad shall have the same effect as a recognition of fatherhood obtained in Iceland.

*C. Registration of a Child's Paternity.*

Art. 7

A physician or a midwife attending childbirth shall immediately register in a birth report all facts providing information as to the child's development, and ask the mother about the child's paternity, recording her statement in the report. The man alleged by the mother to be the father of her child shall not be registered as its father unless the child's paternity has been determined in accordance with this Law.

*D. Court Action Concerning the Paternity of Children.*

Art. 8

Litigation for determining the paternity of children shall be governed by the provisions of Chapter VII, Part A, and litigation for rebuttal of paternity and for invalidation of a recognition of fatherhood shall be governed by the provisions of Chapter VII, Part B.

CHAPTER III

**The Support of Children.**

*A. The Duty of Parents to Support their Children.*

Art. 9

It is the duty of parents, together and individually, to support their children. A child's support shall be provided with regard to the situation of the parents and the needs of the child. This provision shall also apply to adopted children and parents by adoption. It is the duty of a step parent to provide the stepchild with support, as if the child were his or her own. This shall also apply to a man or woman cohabiting with a child's natural parent.

If a child is fostered the foster parent has the duty of providing the child with support as if the child were his or her own.

*B. Orders to Pay Support.*

Art. 10

In case a parent fails in the duty of supporting his or her child, a magistrate may order the payment of support. However, such payments can not be ordered farther back in time than one year from the time when a claim was submitted, unless extraordinary reasons dictate the contrary.

Support payments shall be determined with regard to the child's needs and the economic and other situations of both parents, including their earning ability.

If the father of a child has been convicted of an offence against its mother as described in Chapter XXII of the General Penal Code and the child is deemed to have been conceived by the act, the father may be ordered to pay all costs of the child's support.

Art. 11

A child support order shall state the full name of the parent liable for payment, his or her national registry number and place of residence, and occupation and place of employment at the time the order is issued.

A child support order may never order the payment of a lower amount than corresponding to child maintenance as determined at any particular time in accordance with the Social Security Act, nor may the payment obligation of the parent liable for child support be limited to a lower minimum age than provided for in Article 13 of this Law. From the time this Law enters into effect, child support shall be paid for a child until the child reaches that age, even if a different age limit has been set in a child support order.

Art. 12

In case support payments have been claimed for a child, and the conclusion of the matter can be foreseen to be delayed as the parent against whom the claim is directed resides abroad or contact with the parent is particularly difficult, a magistrate may issue a provisional order to the effect that the State Social Security Institute pay support for the child. The State Treasury shall reimburse such payments, and the Communal Alimony Collection Centre shall collect them from the parent liable to pay child support in accordance with a magistrate's support order directed against the parent.

*C. Termination of the Duty to Provide Support.*

Art. 13



The duty to provide support shall cease when a child reaches the age of 18 years. The duty to pay child support ceases when a child marries, unless a magistrate decides otherwise. A contribution to the education or vocational training of an adolescent person claiming such contribution may be determined until the age of 20 years has been reached. Article 10, Paragraph 1, 2nd sentence, shall apply in this respect.

The provisions of Article 16, Paragraph 1, shall apply to a magistrate's decisions taken in accordance with Paragraph 1 above.

*D. Payment of Child Support.*

Art. 14

Child support shall be paid monthly in advance unless an other arrangement is law-fully determined.

*E. Orders by Reason of Special Disbursements.*

Art. 15

A party liable for support (child support) may be ordered to pay special contributions owing to a child's baptism, confirmation, sickness or burial, or for other extraordinary reasons. Contributions in accordance with Paragraph 1 above shall only be ordered if a claim to that effect has been submitted to the magistrate within three months from the time when the disbursements had to be made, unless there was a valid reason to delay the presentation of the claim.

*F. Amendments to a Child Support Order.*

Art. 16

A magistrate may change an order for the payment of child support if a reasoned request to that effect is presented, and it is demonstrated that the situation of the parents or the child has changed.

An order to pay support payments which have become due at the time the claim is submitted shall, however, not be changed, unless this is dictated by extraordinary reasons.

*G. Support Agreements.*

Art. 17

An agreement concerning support payments for a child is only valid if confirmed by a magistrate. Agreements concerning lower child support payments than corresponding to the amount of child maintenance as determined at any particular time in accordance with the Social Security Act may not be concluded, and child support payments may not be limited to a child's age lower than provided for in Article 13.

Art. 18

A confirmed agreement for support payments, cf. Article 17, shall not prevent a magistrate from ordering a different arrangement in accordance with a reasoned request to that effect, provided the magistrate deems that conditions have changed substantially or that the agreement is contrary to the child's interests.

The principle of Article 16, Paragraph 2, shall apply in such cases.

*H. Entitlement to Support Payments, etc.*

Art. 19

Support payments under this Chapter belong to the child. A lump sum paid in fulfilment of the duty of support shall be preserved as is generally provided for by the Majority Act in respect of funds owned by minors, or in price-indexed State Treasury bonds.

A person paying for a child's support may petition that support payments be determined and collected, provided the petitioner has custody of the child or the child resides with him in accordance with a lawfully determined arrangement. If support has been provided from public funds, the public authority or institution in question shall have the right provided for in the present Paragraph.

*I. Support Payments for Children when Parents Separate.*

Art. 20

When separating parents are in agreement concerning support payments for children their agreement shall be confirmed by a magistrate or by the court resolving the matter of separation, provided their agreement meets the conditions set in Article 17. In other cases the magistrate shall decide on support payments upon the request of either parent, as provided for in this Chapter.

CHAPTER IV

## **Payments Relating to Childbirth and Pregnancy.**

### **Art. 21**

A magistrate may order the father of a child to pay a support allowance to its mother for a total of three months before and after its birth.

If a woman suffers a disease arising from pregnancy or childbirth the magistrate may order the father to pay her a monthly support for care and maintenance for up to nine months after birth.

Payments in accordance with this Article may also be ordered in the event of stillbirth.

### **Art. 22**

In case it is established that the father of a child has committed an offence against its mother as described in Article 10, Paragraph 3, the magistrate shall order him to pay all costs arising from pregnancy and childbirth.

A magistrate may furthermore order the man responsible for pregnancy to pay the costs of lawful abortion.

### **Art. 23**

Contributions under Article 21 and Article 22, Paragraph 1, shall be due as soon as ordered, provided the child has then been born, or at a later time as the magistrate may decide. Contributions according to Article 22, Paragraph 2, shall be due when ordered. Contributions according to Paragraph 1 shall not be ordered farther back in time than one year from the date on which a request was submitted, except in extraordinary cases.

Contributions according to Articles 21 and 22 belong to the child's mother and/or the public institution that has defrayed the expenses in question.

## **CHAPTER V**

### **Payment and Collection of Support.**

#### **Art. 24**

Support (child support) payments for a child, ordered by a magistrate, may be collected by direct enforcement proceedings. Subject to Article 23 this applies also to payments ordered by a magistrate according to Articles 13, 15, 21, and 22.

Payments under Paragraph 1 covered by an agreement of the parties which a magistrate has confirmed may also be collected by direct enforcement proceedings.

#### **Art. 25**

The State Social Security Institute shall pay support (child support) according to a lawful order or confirmed agreement to the parent of a child entitled to support in this country, or to other parties as indicated in Article 27, subject to the limits as regards amounts and age provided for in the Social Security Act at any particular time.

A parent's claim to the State Social Security Institute shall be accompanied by a lawfully served child support order, or a child support agreement confirmed by a magistrate.

In case the parents of a child have lawfully divorced in a foreign country, and the parent not having custody has become obliged to pay a lower amount for the child's support than corresponding to the amount of child maintenance under Social Security, or has not become obliged to pay child support for the child, a magistrate may order that child support shall be paid to the custodial parent by the State Social Security Institute on the basis of a foreign divorce licence, judgment or order. The amounts thus paid shall be reimbursed by the State Treasury and collected by the Communal Alimony Collection Centre as practicable.

In other respects the provisions of the Social Security Act shall apply to claims under Paragraph 2 and the reimbursement thereof, including reimbursement by the State Treasury of child support payments defrayed by the State Social Security Institute on account of parents entitled to support abroad.

#### **Art. 26**

A mother's access to the State Social Security Institute on account of support under Article 21, Paragraph 1, shall be governed by the Social Security Act.

A parent shall have access to the Social Security Institute on account of the payments mentioned in Article 15, and a mother shall have such access on account of payments under Article 21, Paragraph 2, and Article 22, Paragraph 1, of this Law. Subject to the

provisions of the Social Security Act, an adolescent person shall have access to the State Social Security Institute on account of contributions ordered in accordance with Article 13. The Ministry of Health and Social Security may, by regulation, decide what maximum amounts may be paid by the State Social Security Institute in accordance with Paragraphs 1 and 2.

Art. 27

A party supporting a child after the death of a parent or for other reasons as provided for by law, including the municipal government of a child's municipality of support, if support has been paid for by the municipality, shall have the same rights as enjoyed by a parent according to Articles 24 - 26.

Art. 28

The duty of a parent to pay maintenance payments to the Communal Alimony Collection Centre and the collection measures available to that institution shall be governed by the Law in respect of the Communal Alimony Collection Centre.

## CHAPTER VI

### **Parental duties, Custodianship, and Right of Access.**

#### *A. Custodian's Responsibilities.*

Art. 29

Parents shall afford their child care and consideration, and observe their duties of upbringing and custodianship as best suits their child's interests and needs. They shall provide their children with education as required by law, and encourage them in industry and morality.

A child is entitled to the custodianship of its parents, and parents have custodial duties towards their child, until it reaches the age at which it becomes competent to manage its personal affairs. Duties of custodianship may, however, continue in particular respects, if the needs of the child so require. A parent who is a child's sole custodian has the duty of providing for the child's access to its other parent, provided such access is not contrary to the child's interests in the opinion of a competent administrative authority.

The custody of a child entails the custodians' right and duty to manage the child's personal affairs and perform other parental duties. Custodians have the right and the duty to manage the child's financial affairs, as provided for by the Law in respect of Majority. Parents shall to the best of their ability provide their children with education and vocational training in accordance with the children's abilities and interests.

Parents shall as practicable consult their children before making decisions concerning their personal affairs, having in particular regard to a child's maturity.

The provisions of this Article shall apply to a child's natural parents, adoptive parents, step parents and foster parents, cf. Article 9, Paragraph 3, and to a cohabiting partner, i.e. a man or a woman who according to the files of the National Registry or other unequivocal evidence cohabits with a child's natural mother or father.

#### *B. Statutory Custody.*

Art. 30

Subject to Article 32, Paragraph 1, children of minor age are entitled to the custody of both parents, if the parents are married or cohabiting as defined in Article 2, Paragraph 3. If a child's parents are neither married nor cohabiting at the time of its birth, the mother shall, subject to Article 33, Paragraph 1, alone have custody of the child.

If an unmarried parent who has custody of his or her child enters into cohabitation or marries, the step parent or cohabiting parent shall also have custody of the child.

#### *C. Custody in Case of the Death of a Custodial Parent.*

Art. 31

If parents have joint custody of their child and one parent dies, the surviving parent shall alone have custody of the child, with the spouse or cohabiting partner of the surviving parent, as the case may be. Custody of the child may be committed to the spouse or cohabiting partner of the deceased parent who has had joint custody, if requested by that person, provided this is deemed to serve best the child's interests.

If one parent has had custody of a child, a step parent or cohabiting partner who also has had custody shall continue to have custody after the death of the custodial parent.

Custody of the child may be committed to the other parent upon that parent's request, if this is deemed to serve best the child's interests.

After the death of a parent who has had sole custody of his or her child, the child's custody shall be with the other parent. Custody may then be committed to another person if requested and deemed to serve best the child's interests.

Procedure in cases to which Paragraphs 1 - 3 apply shall be governed by the provisions of Articles 33, 34 and 36.

If a child becomes without custody by reason of the death of its custodial parents the child welfare committee shall have custody of the child as provided for in the Child Welfare Act.

#### *D. Custody in Case of Divorce or Separation of Parents.*

##### *Art. 32*

If married parents separate without their marriage being terminated they may decide that one of them shall have custody of their children. The provisions of Article 33, Paragraph 4, shall apply to any agreements concluded in accordance with this Paragraph. The matter of custody shall always be resolved when parents separate or divorce, and when unmarried cohabiting parents separate, cf. Articles 2, Paragraph 3, and 29, Paragraph 6. Subject to the provisions of Article 35, Paragraph 1, the arrangement of custody upon separation shall apply unchanged in case of divorce.

Parents can agree among themselves that they both shall, following divorce or separation, have custody of their child (joint custody), or that one of them shall have custody. The provisions of Article 33, Paragraph 4, shall apply to any agreements concluded in accordance with this Paragraph.

In case of dispute concerning the custody of a child upon termination of marriage or upon the separation of married or cohabiting parents the matter shall be resolved as provided for in Article 34.

#### *E. Agreements Between Parents Concerning Custody.*

##### *Art. 33*

Parents who do not both have custody of their child may agree among themselves to have custody jointly. An agreement on joint custody shall specify with which parent the child shall have its legal home, and consequently where it shall generally stay.

Parents may agree among themselves to change custody arrangements with the effect that custody is transferred from one parent to the other or that joint custody is terminated and custody transferred to one parent.

Parents can agree among themselves to commit custody of their child to a third person, provided the child welfare committee recommend such arrangement. If one parent has custody of a child the opinion of the other parent shall be sought.

An agreement providing for the custody of a child becomes effective when approved by a magistrate. The magistrate shall provide the parties with guidance as to the legal effects of their agreement. If such agreement is contrary to the child's interests the magistrate may withhold his approval.

#### *F. Custody Disputes.*

##### *Art. 34*

The courts have jurisdiction in cases where parents disagree on a child's custody.

The Ministry of Justice may resolve custody disputes if the parties are in agreement to commit the power of decision to the Ministry. If a divorce petition has been submitted in court, the same court shall decide in case of dispute relating to custody, unless both parties agree to seek the decision of the Ministry of Justice in the matter. A dispute concerning the custody of a child may be referred to a court even if the matter of divorce has been committed to a magistrate. Such cases shall be proceeded expeditiously.

The court, or the Ministry of Justice, shall in its resolution determine, in accordance with the best interests of the child, to which parent custody shall be committed. Joint custody shall not be ordered unless both parents agree on such arrangement. In case neither parent is deemed fit for having the custody of their child, custody shall be committed to the child welfare committee as provided for in the Child Welfare Act.

The Ministry of Justice shall generally seek the opinion of the child welfare committee before resolving a custody case. A judge shall seek the opinion of the child

welfare committee if he deems this advisable.

A child who has reached the age of 12 years shall be provided with an opportunity to explain its views in a custody case provided this is not deemed harmful to the child or irrelevant for the conclusion of the case. Younger children may also be consulted if considered appropriate with regard to their age and maturity. A court, or the Ministry of Justice, may engage a specially trained person or persons to ascertain the views of a child and provide a report on the matter.

In case of special need a representative may be appointed for representing a child's interests in the course of a custody case; his fee shall be paid by the State Treasury. Chapters VIII and IX of the present Law provide for the procedure in such cases in further detail.

Art. 35

If a parent requests that an agreement or a resolution of a court or the Ministry of Justice relating to custody be changed, the matter shall be resolved by a court in accordance with the provisions of Chapter VIII, or by the Ministry of Justice if both parties agree on such procedure. A request according to the present Paragraph shall only be granted if change is deemed advisable by reason of changed circumstances and with regard to the child's interests and needs. The provisions of the following Paragraph shall, however, apply to a parent's request for the cancellation of an agreement relating to joint custody.

Parents having joint custody of a child in accordance with an agreement between them may at any time, either or both, request that the arrangement be cancelled. Any new agreement is subject to a magistrate's approval as provided for by Article 33, Paragraph 4, but issues in dispute shall be referred to a court or to the Ministry of Justice as provided, or in Articles 34 and 36.

In case a mother has custody of her child in accordance with Article 30, Paragraph 2, custody may be committed to the child's father upon his request, if such arrangement is deemed to serve the child's interests best. When resolving a matter in accordance with this Paragraph the child's ties to its father shall be among the factors taken into account. The provisions of Article 34, Paragraph 1, 1st and 2nd sentences, shall apply to disputes to which this Paragraph applies.

*G. Provisional Determination of Custody.*

Art. 36

In cases where custody of a child is subject to dispute a court or the Ministry of Justice, depending on where the matter is to be resolved, may decide provisionally how the child's custody shall be arranged, as required by the best interests of the child. Such decision may be changed by reason of substantially changed circumstances. Provisional determination of custody shall not have a binding effect for the deciding authority when a permanent custody arrangement shall be determined, and the competency of the authority making the decision for resolving the matter of custody shall not be affected in other respects.

*H. Right of Access.*

Art. 37

A child has the right of associating with the parent not having custody, who also has the right to associate with the child. The parent has the duty of maintaining association and company with the child and of observing any relevant conditions in that respect.

If the parents agree among themselves how such right of access shall be exercised this right shall be exercised accordingly, provided this is not, in the opinion of the magistrate, contrary to the interests of the child.

In case the parents disagree on the right of access the magistrate shall, upon the request of a parent, define what the right of access entails and how it shall be exercised. The magistrate may refrain from such definition and may furthermore amend or invalidate a decision or an agreement concerning right of access if such a measure is deemed to serve best the interests of the child. In case the magistrate deems that by reason of specific considerations the child's association with a parent is contrary to the child's interest, the magistrate may determine that right of access is suspended. [In exceptional

circumstances the magistrate may, at the request of a parent who does not have the child's custody, define that parent's right to maintain contact with the child by correspondence, telephone and similar means.]<sup>1)</sup>

In the course of a custody procedure a magistrate may, if requested by the parent with whom the child does not reside, determine provisionally in accordance with the basic principles of Paragraphs 1 and 3 of this Article what access the child shall have to that parent until the matter of custody has been resolved.

If one or both parents of a child have died, or if a parent is prevented from exercising the duty of associating with a child, the close relatives of a deceased parent or a parent who is prevented from exercising the duty of association may request that a magistrate determine the extent to which they may associate with the child. The magistrate shall conclude the matter in the manner he deems to serve best the child's interests.

In the matter of exercising the right of access the opinion of the child welfare committee shall be sought when deemed appropriate, as well as the assistance of the committee or a specially appointed supervisor. The principles of Article 34, Paragraph 4, shall apply in this respect, as applicable.

<sup>1)</sup> Law No. 23/1995, Art 1.

Art. 38

If a parent having custody of a child prevents the other parent from exercising the right of access to the child in accordance with a previous determination the magistrate may, upon that other parent's request, order the custodial parent to desist, subject to daily penalties amounting up to kr. 5,000. Daily penalties shall not be imposed until the period for appeal according to Article 74 has passed or, if the matter has been appealed to the Ministry, until the Ministry's decision concerning right of access has been rendered. Daily penalties shall be imposed by formal decision, and the person having custody of the child shall be afforded the opportunity of expressing his views before the decision is rendered. A determination of daily penalties shall be effective for three months at a time for each day that passes from the date of the decision until any hindrances are removed. The daily penalties shall be cancelled when the magistrate deems that access is unhindered. The daily fines may be collected by direct enforcement proceedings in accordance with a petition of the person whose right of access is hindered, and shall accrue to the State Treasury. The maximum amount of daily penalties according to the foregoing shall be subject to changes in accordance with the Credit Terms Index as effective on 1 July 1992. Other legal remedies can not be employed to enforce right of access.

*I. Planned Movement of a Child to a Foreign Country.*

Art. 39

In case a custody dispute has not been brought to a conclusion, a court of law or the Ministry of Justice, depending on the authority to which the resolution of the dispute has been committed, may upon the request of either parent order that the child may not leave Iceland. The court or the Ministry shall resolve the matter by formal decision. A judicial decision of this nature may be summarily appealed to the Supreme Court. Such appeal shall not suspend the effects of the decision.

[In case the parents have custody of their child jointly one parent may not leave Iceland with the child unless the other parent gives its approval.]<sup>1)</sup>

<sup>1)</sup> Law No. 23/1995, Art 2.

Art. 40

If one parent has right of access to a child the other parent may not move from Iceland with the child unless the parent having right of access is afforded the opportunity to state his or her views and to refer the matter to a magistrate, if desired.

*[J. The Right to Information Concerning a Child.*

Art. 40 A

A parent not having custody of a child is entitled to information from the other parent on matters concerning the child, including its health and progress, its stay in a day nursery, school attendance, interests and social contacts.

A parent not having custody of a child is entitled to information concerning the child from day nurseries, schools, hospitals, health care and social affairs institutions, social affairs committees, child welfare committees and police. The right provided for in this Paragraph does not include a right to obtain information on matters concerning

the parent having custody.

The institutions and authorities mentioned in Paragraph 2 can, however, withhold the information if it is deemed that the parent's interest in making use of it must yield to public or private interests of significantly greater weight, including if it is considered that provision of the information may harm the child.

A refusal to provide information concerning a child on the basis of Paragraph 3 is subject to appeal to the magistrate within two months from when the parent was notified of such a decision. A decision of a magistrate taken in accordance with this Paragraph can not be appealed against to the Ministry of Justice.

Under exceptional circumstances a magistrate can decide at the request of a parent having custody to suspend the other parent's right to obtain information under Paragraph 2. Article 74 of this Law shall apply to appeal against a magistrate's decision to this effect.]<sup>1)</sup>

1) Law No. 23/1995, Art 3.

## CHAPTER VII

### **Court Action Relating to Paternity.**

*A. Paternity of Children to Whom Articles 2 - 6 Do Not Apply.*

#### **1. Jurisdiction.**

Art. 41

Court action relating to a child's paternity may be brought in Iceland under the following conditions:

- a. if the defendant resides in Iceland,
- b. if the defendant's estate at death is or has been subject to settlement in this country,
- c. if the child's mother resides in this country,
- d. if the child resides in this country.

Derogations from the provisions of this Article may be provided for in international agreements.

#### **2. Venue.**

Art. 42

Paternity action may be brought in the home venue of the mother or the defendant as further specified in Paragraph 2.

In case the mother does not have a venue in Iceland the action may be brought in the venue of the defendant or in his last venue in Iceland if he has left the country or his whereabouts are unknown, or in the venue where his estate is subject to settlement proceedings.

The action may be brought in the venue of the child if there is no venue under Paragraphs 1 or 2, or before such court in Iceland as the Ministry of Justice may decide.

#### **3. The Parties.**

Art. 43

The plaintiff in paternity action shall be the child's mother, or the child itself. If a child's mother has brought the action, but has died before the case has been brought to a conclusion, the person or municipality that has partially or totally taken over the child's support may continue the action.

The defendant or defendants shall be the man or men who allegedly have had sexual intercourse with the child's mother at the time of the child's conception. If a defendant has died before the action has commenced the action may be directed against his estate. If it is considered certain or probable that more than one man had sexual intercourse with the mother at the time of the child's conception, both or all shall be joined to the action.

#### **4. Procedure.**

Art. 44

Paternity cases shall be handled and adjudicated in district court.

With the exceptions provided for by enacted law, such cases shall be subject to general civil procedure.

Art. 45

While a paternity action is in progress the child's mother shall be entitled to the assistance of the child welfare committee as the judge deems necessary. This shall also apply to a plaintiff child.

The plaintiff in a paternity case shall be entitled to free process in district court and

in the Supreme Court.

Art. 46

The judge shall keep the collection of evidence under observation.

The judge may direct the parties or their legal representatives to collect evidence as he may further specify.

The judge may, furthermore, if deemed necessary, collect evidence on his own accord.

The provisions of the Code of Civil Procedure concerning default of appearance and the effects of not objecting to an adversary's assertions shall not apply to court action under this Chapter.

Art. 47

The parties to the case shall, as summoned by the judge, appear in court and provide statements; this does not, however, apply to the mother if she is plaintiff, but the case shall be dismissed from court if she declines to provide any information she possesses, or refuses so submit herself or the child to a blood test or other scientific examination ordered by the judge.

Art. 48

The judge may order that the blood of the child's mother, the child and the defendants be examined, and that other scientific examinations be performed, including human genetic testing. The persons concerned have the duty of submitting themselves to the taking of blood samples and other examinations for the purpose of scientific testing. The judge may order that blood tests and human genetic tests be performed of the parents and, as applicable, siblings of the mother and a defendant, as well as of other children of the mother and other children of an alleged father.

Art. 49

Court sessions in paternity cases shall be held in camera. A representative of the child welfare committee may attend in the company of the mother or the child.

Art. 50

The judge of a paternity lawsuit shall not be bound by the claims submitted by the parties.

In a case to which the above provisions apply the man who has been established to have had sexual relations with the mother at the time of the child's conception shall be deemed to be the child's father, except if evidence makes this unlikely.

In case it is established that the child's mother has had sexual relations with more than one man at the time of the child's conception, a defendant in a paternity suit shall only be adjudged to be its father if he is significantly more likely to be the father than the other or others in question.

## **5. Publication of Judgment.**

Art. 51

If a judgment in a paternity case is printed or otherwise disclosed to the public the names, occupations and residences of the persons mentioned in the judgment shall not be disclosed.

### *B. Court Action for Rebuttal of Paternity and for Invalidation of a Recognition of Fatherhood.*

#### **1. Rebuttal of a Child's Paternity According to Articles 2 and 3.**

Art. 52

Legal action for rebuttal of a child's paternity may be brought by the husband or the man cohabiting with the child's mother, its mother, the child, or by a guardian of the child appointed ad hoc if applicable; following the death of a husband or a cohabiting man such action may furthermore be brought by his heir whose right of succession to his estate equals or immediately follows that of the child.

Action must be brought within one year from when the plaintiff obtained knowledge of facts on which rebuttal of paternity may be based, and in any case not later than five years after the child's birth. If the husband or the cohabiting man has died before the time limit for bringing action has expired, a party whose right of succession to the estate of the decedent equals or immediately follows that of the child may bring the action within six months from obtaining knowledge of the child's birth and the death of the husband or the



cohabiting man. The above time limits shall not apply in cases where the child is plaintiff. [Under very exceptional circumstances the Ministry of Justice may permit action to be brought after the periods specified in Paragraph 2 have expired. This shall also apply if the periods for bringing action for rebuttal or for invalidation of a recognition of fatherhood had expired before this Law entered into effect.]<sup>1)</sup>

1) Law No. 23/1995, Art. 4

## **2. Invalidation of a Recognition of Fatherhood According to Articles 4 - 6.**

Art. 53

Court action for invalidation of a recognition of fatherhood, cf. Articles 4 - 6, may be brought if new information regarding fatherhood is brought to light, or information which shows that the man who recognized his fatherhood can not be the child's father. The recognized father, the mother of the child and the child itself may be parties to litigation under this Article.

[The principles of Article 52, Paragraphs 2 and 3, shall also apply to legal action in accordance with the present Article.]<sup>1)</sup>

1) Law No 23/1995, Art. 5.

## **3. Procedure.**

Art. 54

Court action under Articles 52 and 53 shall be subject to civil procedure. The provisions of Articles 48, 49 and 51 shall apply to such action.

If a declaration in writing made by a man who is not married to or cohabiting with the child's mother is submitted in an action for rebuttal and confirmed before the judge, stating that man to be the father of the child, and the mother and the man to whom she is married or cohabits with declare in the same manner that they consider the man in question to be the child's father, the judge may render a judgment to the effect that the mother's husband or the man with whom she cohabits is not the child's father, provided the judge deems that the declaration is supported by adequate evidence. This procedure, however, shall not apply if the child has reached the age at which it becomes competent to manage its personal affairs, unless the child approves of a changed assumption of paternity. Paragraph 2 of Article 45 shall apply in case the child is plaintiff in a court action for rebuttal.

In case the husband of a child's mother or the man with whom she has been cohabiting has died before an action has been brought under Article 52, Paragraph 2, the action may be brought against his estate.

## **4. Rebuttal of the Paternity of a Child Conceived by Artificial Insemination.**

Art. 55

In case a man has agreed to artificial insemination of his wife or the woman with whom he cohabits, cf. Article 3, a request for rebuttal of a child's paternity in a court action brought under Article 52 shall only be granted if it is established that the child was not conceived by artificial insemination.

## **CHAPTER VIII**

### **Court Action Relating to Custody of Children.**

#### *A. Jurisdiction.*

Art. 56

Court action originating in a dispute concerning the custody of a child may be brought in Iceland under the following conditions:

- a. if the defendant resides in Iceland,
- b. if the child or children concerned reside in Iceland,
- c. if the plaintiff is an Icelandic national and it is established that he is, by reason of his nationality, barred from legal action in his country of residence or in the country in which the defendant or the children reside,
- d. if both parents are Icelandic nationals and the defendant does not object to the action being brought in Iceland.

The provisions of international agreements to which Iceland is a party shall, however, take precedence over the provisions of Paragraph 1 above.

If a claim concerning custody forms part of a case concerning the status of marriage the principles of jurisdiction and venue provided for in the Law in respect of Marriage shall apply. As regards the aspect of custody the provisions of this Chapter shall be observed.

In very exceptional circumstances an Icelandic court may adjudicate a claim for a provisional custody arrangement, provided the defendant or the child is staying in Iceland.

*B. Venue.*

Art. 57

The court action shall be brought in the home venue of the child or, if this can not be done, in the home venue of the defendant. If neither of them has a home venue in Iceland the action may be brought in the plaintiff's home venue.

In case there is no venue under Paragraph 1 the action shall be brought before such court as the Ministry of Justice may decide.

*C. Procedure.*

**1. General Principles of Civil Procedure, and Exceptions.**

Art. 58

A court action relating to custody of children shall be governed by the principles of civil procedure unless exceptions are provided for by statute.

**2. Conciliation.**

Art. 59

The judge shall seek to conciliate the parties to a custody case.

The judge may decide that a conciliation attempt made by a family counselling establishment shall partially or totally take the place of conciliation procedure under Paragraph 1 above.

**3. Evidence.**

Art. 60

The judge shall keep the collection of evidence under observation.

The judge may instruct the parties or their counsels to collect evidence as further specified, such as reports of experts concerning the parents or the child. The provisions of Chapter IX of the Code of Civil Procedure, no. 91/1991, in respect of experts appointed by the court, shall apply to reports provided under this Article.

The judge may furthermore, if deemed necessary, collect evidence on his own accord, including by hearing witnesses and receiving the opinions of experts. The judge may also direct the parties to provide statements in court under the legal principles applying to witnesses. In his judgment the judge shall decide whether the cost of collecting evidence under this Paragraph shall be paid by the State Treasury.

Art. 61

The judge may decide that either or both parties shall be absent when the views of a child are ascertained as provided for in Article 34, Paragraph 4. Before final argumentation the parties shall be informed of what has been brought to light concerning the child's views, unless this is deemed prejudicial to the child's interests.

**4. Presentation of Requests and Facts.**

Art. 62

The parties may bring forth new requests, facts or objections until the time of final argumentation; conciliation need not be attempted anew on account of new requests unless the judge considers this advisable.

The judge shall not be bound by the requests and facts as presented by the parties.

**5. Court Sessions.**

Art. 63

Cases concerning custody shall be tried and heard in camera, unless the judge decides otherwise with the approval of the parties.

*D. Anonymity, etc.*

Art. 64

Without permission from the judge no disclosure may be made to the public of any other information concerning the proceedings than the judgment itself. A violation of this provision shall be subject to fines.

When publication of a judgment in a case of this nature takes place, including publication under the auspices of the court, names shall not be disclosed, nor shall information be disclosed which may indicate the identity of the parties or the identity of the child or children to whom the judgment relates.

CHAPTER IX

## **Resolution of Issues under this Law by Administrative Procedure.**

### *A. Competence.*

#### **Art. 65**

Administrative authorities shall be competent to resolve issues involving connections to foreign countries under the following conditions:

- a. if the child to whom the matter relates resides in Iceland,
- b. if the party against whom a request is directed resides in Iceland,
- c. if a judicial decision or judgment in a custody or paternity case has been rendered in this country the matter of maintenance payments relating to the same child may also be resolved, provided a request to this effect is submitted within one year from the date of the decision or judgment.

The provisions of international agreements to which Iceland is a party shall, however, take precedence over the provisions of Paragraph 1 above.

### *B. Administrative Area of Resolution.*

#### **Art. 66**

The decision in a matter in dispute which is subject to a magistrate's resolution shall be rendered in the administrative area where the child resides.

If the child is not residing in Iceland the decision shall be rendered in the administrative area where the person against whom the request is directed resides.

If cases are simultaneously in progress which are of the same nature and relate to siblings who do not reside within the same administrative area of resolution, the cases shall be joined and resolved in the administrative area where a decision is to be rendered concerning the request first submitted.

The Ministry of Justice shall decide in which administrative area a matter shall be resolved if neither the child nor the person against whom the request is directed reside in Iceland, or if it is for other reasons not clear where a matter shall be resolved in accordance with the foregoing provisions.

### *C. Duty to Provide Guidance.*

#### **Art. 67**

The magistrate shall provide the parties with guidance as regards their rights and duties having a bearing on the matter in dispute.

### *D. Conciliation Procedure.*

#### **Art. 68**

The magistrate shall attempt to conciliate the parties before rendering a decision on a matter in dispute, except if such attempts will obviously be fruitless or a party fails repeatedly to heed the magistrate's summons. If the parties reside or stay in different administrative areas, conciliation may be attempted where each of them resides or stays. If, in a matter concerning custody or right of access, conciliation has been attempted by a family counselling establishment, a conciliation attempt by the magistrate shall not be necessary.

### *E. The Requests of the Parties, and Collection of Evidence.*

#### **Art. 69**

The parties shall present a clear formulation of the requests submitted by them to the administrative authority, and collect the evidence which the administrative authority deems necessary. The administrative authority may, also, collect evidence on its own initiative if needed.

If the petitioner fails repeatedly to heed the summons or recommendations of the administrative authority concerning evidence to be submitted, the administrative authority may decline to resolve in the matter.

In case a respondent fails repeatedly to heed the summons or recommendations of the administrative authority concerning evidence to be collected, the case shall be resolved on the basis of the requests and evidence on hand.

### *F. The Parties' Access to Documents and Evidence.*

#### **Art. 70**

The parties to a case shall be entitled to make themselves familiar with documents and other evidence concerning the case. This right, however, does not extend to material prepared by the administrative authority for its own use in connection with the procedure.

The administrative authority may restrict the access of the parties to evidence providing information on the views of a child, if recommended by the child's interests.

*G. The Parties' Right to State their Views.*

Art. 71

The parties shall be afforded the opportunity of stating their views before a decision is rendered; the administrative authority may set a definite period for this purpose.

*H. Form and Content of Decision.*

Art. 72

The decision of the administrative authority shall be in writing. The matter at issue and the conclusion, with the reasons leading thereto, shall be stated, including legal arguments on which the conclusion is based, and other relevant points, including appeal and enforcement measures, if applicable.

*I. Notification of Decision.*

Art. 73

The decision of the administrative authority shall be sent to the parties by registered letter, served by one process server, or otherwise notified in a manner providing proof of the notification.

*J. Administrative Appeal.*

Art. 74

The decision of a magistrate may be appealed to the Ministry of Justice within two months as from its date. [In a decision a magistrate may order that an appeal shall suspend its effect.]

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1) Law no. 37/1993, Art 36.

## CHAPTER X

### **Implementation of Decisions Relating to Custody.**

Art. 75

When a decision concerning the custody of a child has been taken and the person with whom the child stays refuses to hand the child over to the person having custody, the person having custody may, in a petition to the district court judge, request that custody be enforced by a magistrate's enforcement proceedings.

In case the person with whom the child stays refuses, in spite of the order of the district court judge, to hand the child over, or to provide the information the magistrate deems necessary for continuing the enforcement proceedings, the magistrate may, if requested by the petitioner, impose daily penalties to be paid by the respondent on the basis of Article 38. Such daily penalties shall accrue to the State Treasury. A decision to impose daily penalties may be enforced by levy. The respondent can not be deprived of his liberty even if he fails in his duty to provide information.

If enforcement proceedings must be carried out as requested by the petitioner the magistrate shall request the presence of a representative of the child welfare committee and the representative of the child, if appointed, cf. Article 34, Paragraph 5. The magistrate may appoint a person to represent the child, if this has not already been done.

As far as assistance is provided by police in the course of the enforcement proceedings, police personnel shall generally wear civil clothes. The enforcement proceedings shall, as far as possible, be conducted with a view to protect the child from undue strain.

## CHAPTER XI

### **Entry into Effect, and Repealed Statutes.**

Art. 76

This Law shall enter into effect 1 July 1992.

When this Law enters into effect Law no. 9/1981 in respect of Children, as amended by Law no. 44/1985, is repealed. The provisions of Articles 47, 48 and 53 of the Law in respect of Marriage, no. 60/1972, are furthermore repealed as from the same time. The Ministry of Justice shall introduce to the public the chief changes brought about by the present Law.

The Ministry of Justice shall issue a Regulation and other instructions concerning the implementation of this Law in particular aspects.

Art. 77

The parties to a custody case in progress at the Ministry of Justice at the time this Law enters into effect shall be informed of their right to seek judicial resolution of the matter. A definite period may be set for the parties for deciding whether to discontinue the proceedings at the Ministry.

Cases concerning right of access and cases concerning maintenance payments which are in progress at the Ministry of Justice at the time this Law enters into effect shall be sent to the relevant magistrate for resolution, provided a case has not reached the final stage in the Ministry's assessment.

The provisions of Article 2, Paragraph 1, 2nd sentence, and of Article 55, shall not be applied with regard to children born prior to the entry into effect of this Law.

The provision of Article 32, Paragraph 2, 2nd sentence, shall not apply to legal separation granted before this Law enters into effect.

Translation from Icelandic

Act on the Judiciary  
No. 15, 25 March 1998

Chapter I  
Judicial Organisation

Section 1

The Supreme Court of Iceland shall be the highest judicial authority in Iceland. The Court shall be a court of appeals, based in Reykjavík.

Section 2

The district courts shall be eight in number. Their names, places and areas of office shall be as follows:

1. The District Court of Reykjavík shall be based in Reykjavík, serving the areas of the following municipalities: Reykjavík, Seltjarnarnes, Mosfellsbær and Kjósarhreppur.
2. The District Court of Western Iceland shall be based at Borgarnes, serving the areas of the following municipalities: Akranes, Hvalfjarðarstrandarhreppur, Skilmannahreppur, Innri-Akraneshreppur, Leirár- og Melahreppur, Amdakílshreppur, Skorradalshreppur, Lundarreykjadalshreppur, Reykholtisdalshreppur, Hálsahreppur, Hvítársíðahreppur, Þverárhlíðahreppur, Borgarhreppur, Borgarbyggð, Álftaneshreppur, Kolbeinsstaðahreppur, Eyja- og Miklaholtshreppur, Snæfellsbær, Eyrarsveit, Helgafellssveit, Stykkishólmsbær, Dalabyggð and Saurbæjarhreppur.
3. The District Court of the West Fjords shall be based at Ísafjörður, serving the areas of the following municipalities: Reykhólahreppur, Vesturbyggð, Tálknafjarðarhreppur, Bolungarvík, Ísafjörður, Súðavík, Árneshreppur, Kaldrananaeshreppur, Hólmavíkurhreppur, Kirkjubólshreppur, Broddaneshreppur and Bæjarhreppur.
4. The District Court of Northwest Iceland shall be based at Sauðárkrókur, serving the areas of the following municipalities: Staðarhreppur, Fremri-Torfustaðahreppur, Ytri-Torfustaðahreppur, Hvammstangahreppur, Kirkjuhvammshreppur, Þveráahreppur, Þorkelshólshreppur, Áshreppur, Sveinsstaðahreppur, Torfalækjarhreppur, Blönduósbær, Svínatnshreppur, Bólstaðarhlíðarhreppur, Engihlíðarhreppur, Vindhælishreppur, Höfðahreppur, Skagahreppur, Skefilsstaðahreppur, Skarðshreppur, Sauðárkrókur, Staðarhreppur, Seyluhreppur, Lýtingsstaðahreppur, Akrahreppur, Rípurhreppur, Viðvíkurhreppur, Hólahreppur, Hofshreppur, Fljótahreppur and Siglufjörður.
5. The District Court of Northeast Iceland shall be based at Akureyri, serving the areas of the following municipalities: Ólafsfjörður, Grímseyjarhreppur, Dalvík, Svarfaðardalshreppur, Hríseyjarhreppur, Árskógshreppur, Arnarneshreppur, Skriðuhreppur, Öxnadalshreppur, Glæsibæjarhreppur, Akureyri, Eyjafjarðarsveit, Svalbarðsstrandarhreppur, Grýtubakkahreppur, Hálishreppur, Ljósavatnshreppur, Bárðdælahreppur, Skútustaðahreppur, Reykdælahreppur, Aðaldælahreppur, Reykjahreppur, Húsavík, Tjörneshreppur, Kelduneshreppur, Öxarfjarðarhreppur, Raufarhafnarhreppur, Svalbarðshreppur and Þórshafnarhreppur.

6. The District Court of East Iceland shall be based at Egilsstaðir, serving the areas of the following municipalities: Skeggjastaðahreppur, Vopnafjarðahreppur, Hlíðar-, Jökuldals- og Tunguhreppur, Fljótshlíðahreppur, Skriðdalshreppur, Vallahreppur, Egilsstaðir, Fellahreppur, Eiðahreppur, Hjaltastaðahreppur, Borgarfjarðahreppur, Seyðisfjörður, Neskaupstaður, Eskifjörður, Reyðarfjarðahreppur, Mjóafjarðahreppur, Fáskrúðsfjarðahreppur, Búðahreppur, Stöðvarhreppur, Breiðdalshreppur, Djúpavogshreppur, Bæjarhreppur, Hornarfjörður, Borgarhafnarhreppur and Hofshreppur.

7. The District Court of South Iceland shall be based at Selfoss, serving the areas of the following municipalities: Skaftárhreppur, Mýrdalshreppur, Austur-Eyjafjallahreppur, Vestur-Eyjafjallahreppur, Austur-Landeyjahreppur, Vestur-Landeyjahreppur, Fljótshlíðahreppur, Hvolhreppur, Rangárvallahreppur, Holta- og Landsveit, Ásahreppur, Djúparhreppur, Vestmannaeyjar, Gaulverjabæjarhreppur, Stokkseyrarhreppur, Eyrarbakkahreppur, Sandvíkurhreppur, Selfoss, Hraungerðishreppur, Villingaholtshreppur, Skeiðahreppur, Gnúpverjahreppur, Hrunamannahreppur, Biskupstungnahreppur, Laugardalshreppur, Grímsneshreppur, Þingvallahreppur, Grafningshreppur, Hveragerði and Ölfushreppur.

8. The District Court of Reykjanes shall be based at Hafnarfjörður, serving the areas of the following municipalities: Grindavík, Sandgerði, Gerðahreppur, Reykjanesbær, Vatnsleysustrandahreppur, Hafnarfjörður, Garðabær, Bessastaðahreppur and Kópavogur.

Each district court shall hold sessions serving the entire area of its office. The Minister of Justice may however, by Regulation, provide for a different arrangement, having obtained the opinion of the district court in question and of the Judicial Council.1)

1)Regulation No. 395/1998.

### Section 3.

There shall also be a Labour Court and a Court of Impeachment. The provisions of other Acts apply to these courts of special jurisdiction.

## Chapter II

### The Supreme Court of Iceland

#### Section 4

The Supreme Court of Iceland shall be composed of nine judges, commissioned for an indefinite period of time by the President of Iceland as proposed by the Minister of Justice.

Only a person who fulfils the following conditions may be commissioned to the office of Supreme Court judge:

1. Has attained the age of 35 years.
2. Is an Icelandic national.
3. Has the necessary mental and physical capacity.
4. Is legally competent to manage his or her personal and financial affairs, and has never been deprived of the control of his or her finances.
5. Has not committed any criminal act considered to be infamous in public opinion, or evinced any conduct detrimental to the trust that persons holding judicial office generally must enjoy.
6. Has completed a graduation examination in law, or graduated from a university with an education deemed equivalent thereto.
7. Has for a period not shorter than three years been a district court judge, Supreme Court lawyer, professor of law, commissioner of police, magistrate, Director of Public Prosecutions, Assistant

Director of Public Prosecutions, public prosecutor, Director General of a Government Ministry, Chief of Office at the Ministry of Justice, or Ombudsman, or has for such period discharged a similar function providing similar legal experience.

8. Is deemed capable to hold the office in the light of his or her career and knowledge of law.

A person who is, or has been, married to a Supreme Court judge already in office, or a person related to such judge by blood or marriage by ascent or descent, or in the second sideline, may not be commissioned to the office of a Supreme Court judge.

Before a person is commissioned to judicial office, the Minister of Justice shall seek the opinion of the Supreme Court as regards the competency and qualifications of the applicants. An applicant, who according to this opinion does not fulfil the requirements of subparagraphs 5 or 8 of the second paragraph, can not be instituted in office.

#### Section 5

The judges of the Supreme Court shall elect a President of the Court for a period of two years at a time, and an alternate President for the same term. The alternate President shall act as President of the Court when the President is unable or absent. If the President or the alternate President request to be relieved from their duties, or cease to hold the office of a judge before the end of the term, the judges shall elect another person to the office until the end of the term. The Supreme Court shall announce the election of a President and alternate President of the Court by an announcement in the Law Gazette.

The President shall be the director of the Court. Subject to the limitations laid down in other provisions of law, the functions of the President shall include administration of those of the Court's functions that do not form a part of litigation procedure, assign tasks to the individual judges and staff members, and exercise disciplinary authority over them. The President shall be in charge of the Court's day-to-day business and of its finances, and represent the Court outwardly, in addition to the particular functions provided for in other laws.

If neither the President nor the alternate President is available, or if neither can take part in the conclusion of a matter or other official act, the judge longest holding office as a commissioned Supreme Court judge shall replace the President.

#### Section 6

The President of the Supreme Court shall appoint a chief of office for the Court, as the judges may decide, for a term of five years at a time. The chief of office shall direct the day-to-day business of the Court as the President may decide in further detail, as an agent of the President, and discharge any other functions the President may commit to him. The chief of office of the Supreme Court has the status of a public official, and his position shall in any other respects be governed by the general rules concerning public servants. Only a person who has graduated in law or has a similar degree in law or other university education may be appointed to this office.

The President shall engage assistants trained in law and other staff to the Court, and lay down the scope of their duties and their position in other respects. He shall also be competent to terminate their employment subject to the generally applicable rules concerning public servants.

#### Section 7



As the President may decide, three or five Supreme Court judges shall handle a case in court. He may however decide that cases of exceptional importance shall be handled by seven judges. The President may furthermore decide that one judge shall handle a case subject to summary appeal, which does not involve important interests, and that one judge shall hold a session to decide on a matter of procedure or to announce a judgment rendered.

Five or seven judges who hear a case in court shall generally be those who have longest held office as Supreme Court judges. An alternate judge, as provided for in Section 8, shall not be required to handle a case unless the number of regular judges can not be reached by reason of their incapacity or inability.

In cases of extensive scope the President may decide that a judge, who otherwise does not take part in the handling of a case, shall hear the final argumentation and take part in adjudication, if another judge later becomes unable to do so.

When the Supreme Court is performing a function as provided for by law, that does not involve the handling of a case in court, its decision shall, subject to the provisions of other laws, be taken by all the judges. If a judge can not take part in the handling of the matter by reason of incapacity or inability, an alternate judge, as provided for in Section 8, shall generally not be required to take part, unless fewer than five judges are available.

Notwithstanding the provisions of the fourth paragraph, the Supreme Court may commit the resolution of petitions of particular categories to three or five judges, such as petitions for leaves of appeal or renewed procedure. The Court may also commit to the President alone the resolution of various minor matters.

#### Section 8

If a Supreme Court judge lacks competency to take part in the handling of a case, or if a judge is granted a leave or is unable to attend to his duties for a brief period of time, the Minister of Justice shall, in accordance with a proposal made by the President of the Court, appoint an alternate judge to take his place for the handling of a particular case. An alternate judge shall be appointed from among district court judges, professors of law, Supreme Court lawyers or retired Supreme Court judges, who fulfil the qualifications for commission as Supreme Court judges.

If all the judges of the Supreme Court lack the competency to handle a case, the President of the Court shall propose to the Minister of Justice the appointment of a single alternate judge to preside over the Court for that case. When the alternate judge has been appointed, he shall propose to the Minister what other judges to appoint.

An alternate judge can not be relieved of his duties relating to a particular case unless requested by that judge, or if he, in the opinion of the Supreme Court, is no longer in possession of the general qualifications for judges before his mission is concluded.

The Supreme Court shall determine the remuneration of an alternate judge for each case handled by that judge.

#### Section 9

A Supreme Court Judge can only be granted a leave from his duties by reason of illness lasting longer than twelve consecutive months.

The Minister of Justice grants such leaves. Having obtained the proposal of the Supreme Court, the Minister shall appoint a judge to replace the regular judge for the duration of his leave, provided the procedure provided for in Section 8 is not followed during the period of the leave.

Notwithstanding the provisions of the first paragraph, the Minister

may grant a Supreme Court judge a leave for up to six years, upon his request, in order to enable him to take a seat on an international tribunal or to serve an international institution. The office shall then be announced as vacant during the period of the leave, and when appointing a candidate the provisions of Section 4, fourth paragraph, shall be observed.

Only a person fulfilling the qualifications set for the office of a commissioned Supreme Court judge can be appointed to that office. The person appointed shall, during the period of the appointment, have the same status as a commissioned judge, subject to any changes leading from an appointment of limited duration.

#### Section 10

The sessions of the Supreme Court shall, unless particular reasons dictate a different arrangement, be held in Reykjavík.

The President of the Supreme Court shall preside over the proceedings, or the alternate President, if the President is not among the judges handling a case. If neither the President nor the alternate President take part in the handling of a case, the proceedings shall be presided over by the judge longest holding office as a commissioned Supreme Court judge.

The Supreme Court may decide to limit or suspend its regular activities in order to accommodate for regular vacations of the judges and staff members.

#### Section 11

The Supreme Court shall lay down rules on court records, judgment records, voting records and dockets.

The judgments of the Supreme Court shall be published. This shall be done as the Court, having obtained the approval of the Minister of Justice, may decide.

### Chapter III

#### The District Courts

#### Section 12

The judges of the district courts shall be 38 in number, appointed to their offices for an indefinite period of time by the Minister of Justice. Only a person fulfilling the following qualifications may be appointed to the office of a district court judge:

1. Has attained the age of 30 years.
2. Is an Icelandic national.
3. Has the necessary mental and physical capacity.
4. Is legally competent to manage his or her personal and financial affairs, and has never been deprived of the control of his or her finances.
5. Has not committed any criminal act considered to be infamous in public opinion, or evinced any conduct detrimental to the trust that persons holding judicial office generally must enjoy.
6. Has completed a graduation examination in law, or graduated from a university with an education deemed equivalent.
7. Has for a period not shorter than three years been a Member of Parliament or has, without interruption, been a lawyer representing litigants in court, or has been, as a main occupation, engaged as a lawyer with national or municipal public authorities. The periods in each of these occupations may be added together.

The Minister of Justice shall appoint an evaluation committee of three members, for a term of three years at a time, to consider the qualifications of applicants for the office of a district court judge. One member shall be nominated by the Supreme Court to serve as

chairman. The Icelandic Judges' Association shall nominate another member from among district court judges, and the Icelandic Bar Association shall nominate a third member from among active representatives in litigation. Alternate members shall be nominated and appointed in the same manner. The period of appointment shall be three years, with the proviso that the term of one member shall expire each year. A principal member of the committee shall not be appointed more than twice in succession.

The evaluation committee instituted according to the third paragraph shall provide the Minister of Justice with a written and reasoned opinion on any applicants for the office of a district court judge. The Minister shall issue rules on the functions of the committee in other respects in further detail.

### Section 13

The Judicial Council shall be composed of five members appointed by the Minister of Justice. Two shall be elected by district court judges from among their group, two by the chief judges of the district courts from among their group, and the Minister shall appoint one member, who is not an active judge, without a nomination, to serve as chairman. The period of appointment to the Judicial Council shall be five years, with the proviso that the term of one member shall expire each year. Each of the five members shall have an alternate who is appointed, and, as the case may be, nominated, in the same manner as a principal. A principal member of the Judicial Council shall not be appointed more than twice in succession.

If a district court judge or a chief judge with a seat on the Judicial Council ceases to hold office as such before the his term of appointment is concluded, or if he is relieved from his duties as a member of the Council, another member shall be elected and appointed in his place to serve until the end of the term. The Minister shall appoint a new member of the Judicial Council if the member appointed by him without a nomination leaves the Council before the end of his term.

The Judicial Council shall elect its chairman as from the beginning of each calendar year. The Council shall decide at what location its functions shall be performed.

The State Salaries Arbitration Tribunal shall determine the remuneration of the members of the Judicial Council.

### Section 14

In addition to the functions provided for in other provisions of this Act, the functions of the Judicial Council shall be the following:

1. To control the financial affairs of the district courts on its own responsibility, make proposals to the Minister of Justice on financial appropriations to them, and to distribute among them the funds to be appropriated to them in a single sum under the Budget Act.
2. To determine the number of judges and staff members at each district court, and to issue rules applying generally to transfers of judges between the district courts.
3. To organise continuing education for district court judges and other lawyers in service of the district courts.
4. To issue rules on co-ordinated judicial practice, which the Council may give binding effect to the extent they do not relate to the handling of a court case for which a judge is solely responsible, as provided for in Section 24, first paragraph.
5. To collect information on the number of cases in the district courts, and the conclusions of cases, and make, as necessary, any proposals related thereto, and to otherwise promote efficiency and expediency in the handling of cases in the district courts.

6. To issue, as necessary, general rules on the presence of district court judges in their workplaces and their vacation arrangements, including whether, and if so how, the activities of the district courts may be limited on account of any vacations of judges and staff members.

7. To represent the district courts collectively to executive authorities and others.

8. To make proposals on any matter conducive to improving the functions of the district courts, or amending the legislation applicable to them.

The Judicial Council shall annually publish a report on its own functions and those of the district courts.

#### Section 15

The Judicial Council shall decide with what district court each district court judge shall generally serve. The Council may however decide that up to three district court judges shall not serve with any particular district court, but with any district court as cases for handling at each of them may be assigned to them in accordance with the Council's general authority. The Council shall decide where such judges shall have their place of work.

A decision of the Judicial Council on a judge's place of work according to the first paragraph may apply either for a definite or indefinite period. When the office of a district court judge is vacant, a decision shall generally be taken on the planned place of work of the judge to be appointed before the office is announced for application. The Judicial Council shall make every effort to take the personal wishes of a judge into account when a decision is made on his or her first place of work.

A district court judge is entitled to have his or her place of work changed as soon as possible after having been in office for three consecutive years at the same district court, or without a permanent appointment to a particular district court, provided the provisions of the fifth paragraph do not prevent his transfer to another place, cf., also, the provisions of Section 39.

Unless approved by a district court judge, he can not be transferred to a new place of work for a period longer than six months in each 10 years, if the judge can not attend work there in a trouble-free manner without transferring his or her personal home. This shall however not apply if a judge must be transferred by reason of a permanent reduction of the number of judges in office at a particular court.

If a district court judge who is permanently engaged to serve with a particular district court is needed for adjudication of a particular case at another district court, including for taking a seat in a court of many judges, the Judicial Council shall decide who shall be given the assignment. A judge is obliged to heed such a decision of the Council.

#### Section 16

The Minister of Justice shall appoint a chief judge to each district court for a period of five years at a time. Where three or more judges are engaged with the same district court, they shall elect one of their number for the office, but where there are two judges, the Judicial Council shall nominate one of them for the office if they are not in agreement. An election or a nomination is not binding for the Minister. A single judge serving with a district court shall be appointed chief judge. The appointment of a chief judge shall not be affected by any reduction of, or increase in, the number of judges during the period of appointment.

The judges of a district court where three or more district court judges are permanently engaged can elect an alternate chief judge, but if this is not done, the district court judge longest holding office as an appointed district court judge shall be the chief judge's vicar.

If a judge serving the office of chief judge is transferred to another court, if he is relieved of his duties as such, or from the office of district court judge, a new chief judge shall be appointed as provided for in the first paragraph.

If the Judicial Council considers that a chief judge has evinced conduct unbecoming his office as chief judge, he shall be afforded an opportunity to express himself on the matter. If the Council considers the chief judge's explanations unacceptable, the Council may admonish him in writing. In case of a serious or repeated breach, the Council may, in a reasoned proposal, propose that the chief judge be relieved. The Minister of Justice shall decide whether a chief judge shall be relieved, but the provisions of the Administrative Procedures Act shall apply in other respects on the handling of the matter.

In addition to judicial functions, a chief judge shall be in charge of the court and be responsible for its business. The chief judge shall assign duties to the judges and staff members; he may divide the court into different chambers and shall assign individual cases to the judges or chambers. The chief judge shall engage any staff members other than judges, and terminate their employment. The chief judge shall monitor the performance of the judges and staff members, and exercise disciplinary authority to the extent this is not committed to others under the provisions of Sections 28 – 30. He shall be responsible for the funds allocated to the court by the Judicial Council, maintain relations with the Judicial Council in the context of any matters coming within the scope of its functions, and discharge any other assignments particularly committed to him by the Council. The chief judge shall also represent the court outwardly and answer for it as regards any affairs particular to that court.

#### Section 17

Lawyers meeting the qualifications stated in Section 12, second paragraph (2 – 6), may be engaged to the district courts for assisting the judges. These shall be engaged by the chief judge and the general rules applying to state employees shall apply to them, with the exception that they shall be temporarily engaged for a period not exceeding five years at the same court.

#### Section 18

When assigning cases to the various judges or chambers, the chief judge shall attempt to maintain, as far as possible, an even workload among them, at the same time endeavouring that the identity of the judge given each assignment is solely subject to chance. The Judicial Council may issue guidelines on the assignment of cases.

If a case is assigned to a chamber of the court, the judges of that chamber shall decide what judge shall handle the case.

Each case shall be handled by one district court judge, unless a different arrangement is prescribed by law. The chief judge may however decide, under the provisions of other laws, that a case shall be handled by many district court judges. In this event, he shall assign a case to them all, and select one judge to preside. If a district court judge from another court is needed to take part in the handling of a case, the chief judge shall contact the Judicial Council, which shall assign the task to a judge.

The petition of a judge not to be assigned a particular case may be granted by reason of the judge's relationship to the matter in

controversy, the parties, their non-legal representative or their lawyer, even if the judge can not be deemed to lack competency to handle the case, provided the judge's petition is soundly reasoned and another judge is available at the court to handle the case. A judge may also ask not to be assigned a case by reason of workload, and on the grounds that workload is not evenly distributed. The chief judge shall decide on such petitions, but the judge in question shall be free to refer his decision to the Judicial Council for review. The Council's decision can not be referred to any other administrative authority.

The chief judge shall be free to withdraw a case already assigned without the petition of the judge to whom the case was assigned, if the judge does not heed the chief judge's direction to bring it to a conclusion within a reasonable period of time, or if illness or other special circumstances prevent the judge from attending to the case. The judge in question shall be free to refer the decision to the Judicial Council for review. The Council's decision can not be referred to any other administrative authority.

If a district court judge withdraws from a case, the chief judge shall assign it to another judge, provided that judge fulfils the special competency requirements to handle that case. If necessary, the chief judge may ask the Judicial Council to commit the handling of the case to a judge serving another court.

#### Section 19

If no judge serving a particular district court fulfils the special competency requirements to handle a case, the chief judge shall pronounce a court decision to the effect that all the judges withdraw.

If no judge serving another court proves to have competency to handle the case, the Judicial Council shall prepare a written and reasoned opinion on the matter. The Minister of Justice shall then appoint a judge ad hoc to handle the case.

A judge appointed ad hoc shall fulfil the requirements set for appointment to the office of a district court judge. If a judge appointed ad hoc considers that the court should be composed of many judges, other than expert assistant judges, or if this is necessary according to law, the Minister of Justice shall, upon his request, appoint two other judges ad hoc to handle the case with the first judge, and the judge first appointed shall preside.

A judge appointed ad hoc can only be relieved from his duties subject to the same conditions as appointed regular judges. The Judicial Council shall decide on the remuneration of a judge appointed ad hoc, and this shall be paid by the State Treasury.

#### Section 20

A district court judge can not be granted a leave from his duties for a period exceeding twelve consecutive months, except on grounds of health. The Judicial Council may however grant an exception from this and allow a longer period of leave, for up to twelve months at a time, if a judge requests this for purposes of education. The Judicial Council shall, in other respects, issue rules on leaves. The judicial council shall grant leaves on account of vacations, and shall decide on applications for leaves for other reasons lasting up to one month in total. In other cases the Council shall propose how the application of a district court judge for a leave shall be replied to, but the Minister of Justice shall, having received the proposal, decide whether the application shall be granted.

If a district court judge is unable to attend to his duties or if he is granted a leave under the terms of the first paragraph, another person shall only be appointed to replace him if this is demanded by

a particularly high workload and the Judicial Council recommends that this be done. The Minister of Justice, having received the proposals of the Judicial Council, shall then appoint a judge to replace him. The Minister may, however, either on his own initiative or according to a proposal made by the Judicial Council, announce the office as vacant for the duration of the leave of the appointed regular district court judge, but the Judicial Council shall select one person from among the applicants to recommend for the position. Notwithstanding the foregoing the Minister may grant a district court judge, upon his request, a leave for up to six years in order to enable him to take a seat on an international tribunal or to serve an international institution. The office shall then be announced as vacant during the period of the leave, and when appointing a candidate, the provisions of Section 12, third and fourth paragraphs, shall be observed.

Only a person fulfilling the qualifications set for appointment to the office of a district court judge can be engaged for that office. The person so engaged shall, during the period of the engagement, have the same status as an appointed judge.

#### Section 21

Each district court shall hold sessions at the location where it is based, and in other locations as the Minister of Justice may decide, if sessions shall be held at more than one location within the area of the court. This shall be laid down in an administrative regulation<sup>1)</sup> issued by the Minister after having obtained the proposals of the district court in question.

A district court judge may hold court sessions in individual cases outside the regular location and within the area of his office, if this is deemed desirable with a view to their handling. A district court judge may also, subject to the same conditions, hold sessions outside the area of his office in order to handle a case after it has been filed.

<sup>1)</sup>Regulation No. 395/1998.

#### Section 22

The district courts shall hold regular sessions at permanent locations as the Judicial Council, having obtained the proposals of the chief judges, shall decide. The Judicial Council shall announce such decisions in the Law Gazette.

### Chapter IV Rights and Duties of Judges

#### Section 23

The provisions of this Chapter shall apply to both Supreme Court and District Court judges, unless an alternative arrangement is expressly provided for.

For the discharge of the functions provided for in this Chapter, the Minister of Justice shall appoint three persons to form a Committee on Judicial Functions, and three alternates. One member shall be appointed as proposed by the Icelandic Association of Judges, another as proposed by the Law Faculty of the University of Iceland, and the third without a nomination. The person appointed without a nomination shall serve as chairman, and shall fulfil the requirements set for commission to the office of a Supreme Court judge. The period of appointment shall be three years, with the proviso that the term of one member shall expire every second year. Alternates shall be appointed in the same manner. A principal member of the Committee shall not be appointed more than twice in

succession.

The decisions taken by the Committee on Judicial Functions can not be referred to any higher administrative authority.

The Committee on Judicial Functions shall, as necessary, maintain co-operation with the Judicial Council. The State Salaries Arbitration Tribunal shall determine the remuneration of its members.

#### Section 24

Judges shall discharge their judicial functions independently and on their own responsibility. They shall, in resolving a case, proceed solely according to law, and shall never be subject to the authority of any other person. A judicial resolution can not be revised, except by appeal to a higher court.

A judge shall bring the cases assigned to him to a conclusion within a reasonable period of time, and discharge his functions conscientiously and carefully. In any respects unrelated to the handling and resolution of court cases, a judge is subject to the authority of the person in charge of the court. District court judges shall also respect any decisions lawfully taken by the Judicial Council.

Judges shall endeavour to maintain their knowledge of law. They shall, as possible, be afforded opportunities for leave and support for continuing education.

#### Section 25

The State Salaries Arbitration Tribunal shall decide on the remuneration of judges for work carried out in official capacity.

#### Section 26

A judge may not accept an occupation or become the owner of a share in a company or enterprise if this is not compatible with his office or carries a risk that he will not be able to discharge his official duties properly.

The Committee on Judicial Functions shall issue generally applicable rules concerning which additional functions may be considered compatible with a judge's official functions. A judge shall report any additional functions to the Committee before accepting them. If the general rules issued by the Committee do not enumerate that function, a judge shall seek its permission in advance.

The Committee on Judicial Functions shall issue generally applicable rules concerning the extent to which ownership of a share in a company or enterprise is compatible with the office of a judge. A judge shall report any share acquired by him in a company or enterprise to the Committee. If the general rules issued by the Committee do not provide for his right to own such a share, the judge shall seek its permission in advance.

The Committee on Judicial Functions can, by a reasoned decision, prevent a judge from discharging an additional function or owning a share in a company or enterprise. A judge shall be obliged to heed such prohibition, but is entitled to seek a judicial resolution on its legality.

#### Section 27

Any person who considers that a judge has committed an infringement against his or her rights in the discharge of judicial functions can lodge a written complaint of the matter with the Committee on Judicial Functions. The events in question shall be described in the complaint, and reasons presented for the allegation that the rights of the complainant have been infringed upon. If the



Committee, having received a complaint, immediately considers evident that it does not warrant any further action, it shall dismiss the complaint. If not, the Committee shall afford the judge, and the person in charge of the court in question, an opportunity to present their written observations within a specified period of time. The Committee may consider two or more complaints at once, if they relate to the same judge.

If a complaint is considered worthy of consideration, the Committee on Judicial Functions shall bring the matter to a conclusion by a written and reasoned opinion. If the Committee considers that action should be taken on the matter, it may state in what manner the judge in question failed to observe his duties, or admonish the judge as provided for in Section 28.

#### Section 28

If the person in charge of a court considers that the professional conduct or performance of a judge, or his private conduct, is worthy of censure, without the provisions of the second paragraph being applicable, he may request, orally or in writing, that the judge correct the matter.

If a request made in accordance with the first paragraph is not successful, or if the person in charge of the court considers the matter so serious that a request of this kind is not suitable, the person in charge of the court shall refer the matter to the Committee on Judicial Functions in writing, stating the reasons. The same procedure shall be followed in case a judge does not heed a decision of the Judicial Council or a prohibition laid down in accordance with the provisions of Section 26, fourth paragraph.

The Minister of Justice may refer a matter to the Committee on Judicial Functions in the manner provided for in the second paragraph. The Committee may also consider a matter on its own initiative if the situation is such as described there.

If the Committee on Judicial Functions receives a matter for consideration in the manner described in the second or third paragraphs, the Committee shall afford the judge in question an opportunity to reply to the allegations in a written exposition. The Committee shall in other respects collect evidence as the it may consider necessary. The procedure shall in other respects be governed by the provisions of the Administrative Practices Act, as applicable.

The Committee on Judicial Functions shall bring a matter to a conclusion by a written and reasoned opinion on whether the judge in question shall be admonished. An admonition shall be made in a manner offering proof, and a copy shall also be sent to the person in charge of the relevant court and to the Minister of Justice. If the judge is a district court judge, the Judicial Council shall also be sent a copy.

A judge who has been admonished may take legal action for its invalidation against the Minister of Justice on behalf of the State within one month from when the admonition was served the judge.

#### Section 29

A judge may be relieved from his office temporarily if he has been admonished and fails to heed the admonition within a suitable period of time, or if his conduct provides an occasion for a new admonition within a period of three years. A judge may also be relieved from his office temporarily if he is no longer in possession of the general qualifications required for judicial office. This shall also apply if a judge is subject to a criminal investigation, or if a criminal action is

brought against him where the charges, if sustained, would have the effect of depriving the judge of the general qualifications for judicial office.

The President of Iceland shall relieve a judge of the Supreme Court from office temporarily as proposed by the Minister of Justice, and the Minister shall have this power with regard to district court judges. The Minister shall seek a written opinion of the Committee on Judicial Functions before a judge is temporarily relieved from office.

If a judge has been relieved from office temporarily for reasons other than those mentioned in the final sentence of the first paragraph, legal action shall be brought against him within a period of two months as provided for in Section 30, first paragraph, and if this is not done, the decision shall be cancelled automatically. If the case is dismissed from court or the action is cancelled, the decision shall also be automatically cancelled unless a new action is brought within a period of two weeks; however, this may occur only once. A decision taken to relieve a judge from office, as provided for in the final sentence of the first paragraph shall stand until the criminal investigation is concluded with a decision not to prosecute the judge, six months have passed without an indictment having been issued, a criminal action is brought to a conclusion of final acquittal, or until two weeks have passed from the pronouncement of a final judgment finding the judge guilty.

A judge shall retain his official salary in full while temporarily relieved from office.

#### Section 30

When a judge has been temporarily relieved from office, the Minister of Justice shall, on behalf of the State, take legal action against him before the District Court of Reykjavík, requesting dismissal from office by judgment. The action shall be governed by the general rules on civil procedure, with the exception that expeditious procedure shall apply and that the case shall be handled by three district court judges.

After a judgment has been rendered by the district court in a legal action taken as provided for in the first paragraph, the decision to relieve the judge from office temporarily shall remain in effect until the general time limits for appeal have passed, and, in case of appeal, while the action is in progress before the Supreme Court. A final judgment on dismissal from office has automatically that effect.

If the court denies a request for dismissal from office, the judge is automatically reinstated in office as from the date a rendered judgment enters finally into effect.

#### Section 31

The President of Iceland shall relieve a judge of the Supreme Court from office as proposed by the Minister of Justice, and the Minister of Justice shall have this power with regard to district court judges. A judge shall be relieved from office at his own request, subject to the rules generally applicable to public servants.

A judge shall be deemed to be relieved automatically if he accepts a commission or appointment to another office.

A judge may be relieved from office when he has attained the age of 65 years, but he shall subsequently be entitled to a pension as if he had been in office until the age of seventy, unless he is entitled to further rights according to constitutional law.

A judge shall in any case be relieved from office when he has attained the age of seventy years.

### Section 32

The General Penal Code and the special provisions of other laws shall govern any criminal liability resulting from a judge's conduct in office.

The State shall be liable for damages in accordance with the generally applicable rules if the actions or inaction of a judge result in loss to other persons. Damages can not be claimed from a judge personally, but following a judgment ordering damages, the State may claim refund from the judge if the loss was due to his intentional act.

Litigation on this account shall be governed by the generally applicable rules.

### Section 33

In other respects than provided for above, the rules applying to public servants in general shall apply to judges, as applicable.

English translation

Act No. 58/1992, as amended by Act No. 22/1995.  
Statutory text published by the Ministry of Social Affairs in November 1995

## Children and Youth Protection Act

THE PRESIDENT OF ICELAND

*hereby proclaims:* Parliament has adopted this Act and I have confirmed it with my consent:

### CHAPTER I

#### Objective and administration of child protection

##### Article 1

##### *Objective of child protection*

The objective of child protection is to ensure that children and youth are raised in satisfactory conditions. This shall be accomplished by strengthening the childraising role of the family and by applying remedies to protect individual children when appropriate. The guiding principle in all child protection work should be to follow the course which can be expected to prove most beneficial to the child. All child protection work should also be directed towards encouraging stability in the upbringing of children and youth.

For the purposes of this Act the term *children* is used to refer to individuals younger than sixteen years of age, while *youth* are individuals from sixteen to eighteen years of age.

Any reference to parents in this Act applies equally to others having guardianship of children, cf. the sixth paragraph of Article 29 of the Children Act.

##### [Article 2]<sup>1</sup>

##### *Administration of child protection affairs*

Work to protect children and youth in accordance with this Act is carried out by the Ministry of Social Affairs, the Government Agency for Child Protection, Child Protection Committees and the National Council for Child Protection, hereafter referred to in this Act as the child protection authorities.

##### [Article 3]<sup>2</sup>

##### *Role of the Ministry of Social Affairs and the Government Agency for Child Protection*

The Ministry of Social Affairs is the ultimate authority in affairs of child protection and is responsible for policy making in this area. A special institution, the Government Agency for Child Protection, shall serve to co-ordinate and strengthen child protection work. It shall be in charge of day-to-day administration of child protection activities. Its primary role shall be:

1. to offer instruction and counsel to Child Protection Committees with regard to family welfare and handling of child protection cases,
2. to monitor the work of Child Protection Committees, for instance by collecting annual reports from them,

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<sup>1</sup> Art. 1, Act No. 22/1995.

<sup>2</sup> Art. 2, Act No. 22/1995

3. to supervise and monitor institutions and homes operated or supported by the national government for children and youth placed there pursuant to this Act,
4. to supervise placement of children and youth in institutions and homes operated or supported by the national government pursuant to this Act,
5. to see to the establishment of institutions and homes in accordance with the second and fourth<sup>1</sup> paragraphs of Article 51 of this Act,
6. to assist Child Protection Committees in finding suitable foster parents,
7. to support research and development work in the area of child protection, and
8. to provide education and instruction concerning child protection, in particular for Child Protection Committees and their staff.

Should a Child Protection Committee fail to perform the duties assigned to it by this Act the Government Agency for Child Protection shall demand a report and oblige the Committee to fulfil its duties. If the Agency feels it justified, it may direct a Child Protection Committee to take special measures in a case whether or not the Committee has previously dealt with the case concerned. Should the Agency become aware of the fact that a Child Protection Committee has issued a ruling which is contrary to law it may refer the case to the National Council for Child Protection for a final ruling.

Decisions of the Government Agency for Child Protection may be appealed to the Ministry of Social Affairs.

The Government Agency for Child Protection shall issue an annual report of its activities.

The Minister shall prescribe the activities of the Government Agency for Child Protection in detail in a Regulation.<sup>2</sup>

#### Article 4

##### *Principal areas of activity of Child Protection Committees*

*Preventive measures.* Child Protection Committees shall make proposals and suggestions aimed at contributing to a positive environment for the upbringing of children and youth and point out social circumstances which are contrary to these aims.

*Surveillance and inspection.* Child Protection Committees shall inspect facilities provided, conduct and home environment of children and youth with the purpose of discovering as early as possible difficulties resulting from an unfavourable environment, ill treatment or social problems. Child Protection Committees shall also in particular inspect the circumstances of children who dwell in institutions for children in their district, such as day care centres, summer camps and nursery school facilities of all kinds, in so far as responsibility for such inspections has not been legally assigned to other bodies.

*Remedies.* Child Protection Committees shall implement remedies provided for by this Act which are most suitable in each case and appear most likely to ensure the welfare and best interests of a child or youth. They may order the removal of a child from its home and place it in a foster home or educational institution if no other remedies appear suitable to achieve the purposes specified in this Act.

*Other activities.* Child Protection Committees are also responsible for other duties assigned to them by other laws.

<sup>1</sup> Should be fifth paragraph.

<sup>2</sup> Regs. No. 264/1995 and No. 307/1005

## Article 5

### *Special responsibilities of child protection authorities.*

[Staff of the Government Agency for Child Protection,]<sup>1</sup> individual members of Child Protection Committees and the National Council for Child Protection, their representatives and others in their employ shall enjoy the protection to which public servants are entitled and assume their responsibilities as such. They shall show the utmost consideration for feelings of children and youth with whom they are concerned and may not divulge personal information regarding individuals and their families which they acquire in performance of their duties to parties not involved in the case in question.

## CHAPTER II

### Child Protection Committees

#### Article 6

##### *Election to and eligibility to serve on Child Protection Committees*

Child Protection Committees shall act on behalf of local governments. The Reykjavík City Council and local authorities elect their Child Protection Committees, cf. the second paragraph, however. Smaller communities shall join in electing a common Child Protection Committee. A local government may assign to a district committee or board of a local authority group the responsibility for electing a Child Protection Committee whose activities will extend to more than one local authority or agree on some other form of regional co-operation than that described here.

A local authority may also assign the duties of a Child Protection Committee to a Social Affairs Council (or Social Affairs Committee) and in such a case shall seek to ensure that the principles outlined in the fifth paragraph regarding the election of individuals to Child Protection Committees are adhered to.

A Child Protection Committee shall be comprised of five members and an equal number of alternates.

A Child Protection Committee shall generally be comprised of both male and female members. Members shall be known to be of high moral character and have sound judgement in such questions as Child Protection Committees deal with. The attempt shall be made to elect a lawyer to the Child Protection Committee if at all possible and in addition other members with specialised knowledge of children's affairs.

Eligibility for election to a Child Protection Committee is subject to the same rules as eligibility to serve as a local government representative, cf. the first and second paragraphs of Article 20 and Article 19 of the Local Government Act, No. 8/1986. Elections are carried out as provided for by Article 57 of that same Act as appropriate.

#### Article 7

##### *Staff of Child Protection Committees*

A Child Protection Committee shall, on the authorisation of the local authorities concerned, hire specially qualified staff. This shall be done with the aim of providing parents and guardians of children and institutions providing for their care with suitable advice, instruction and direction in accordance with this Act. Furthermore, they shall seek to provide sufficient possibility for the social and psychological examinations of children which may be necessary to investigate and deal with questions of child protection.

A Child Protection Committee may negotiate with institutions such as local Departments of Social Affairs, regional school divisions, district authorities and primary health care centres to share staff and specialised services, as well as to have access to specialists in individual cases.

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<sup>1</sup> Art. 3, Act No. 22/1995.

A Child Protection Committee may assign to its staff the investigation and handling of individual cases or of certain categories of cases and adopt rules in this regard which must be approved by a district committee or local authority. Any decision as to measures to be taken regarding enforcement is, however, the sole responsibility of the Child Protection Committee, cf. Article 47.

#### Article 8

##### *Competence of Child Protection Committees and their co-operation*

The Child Protection Committee in the area where a child is resident is responsible for dealing with matters concerning that child, cf. Article 3, however.

Should a child move from the district of a Child Protection Committee after its case has been dealt with by this Committee, the Child Protection Committee at the location of the child's new residence shall take over in dealing with the case. The Child Protection Committee which was formerly involved shall be responsible for notifying the latter Committee of the change of residence and of its previous involvement in the child's affairs. The [Government Agency for Child Protection]<sup>1</sup> may, however, authorise the Child Protection Committee which previously handled the case to continue to do so if this involves operations pursuant to the second paragraph of Article 22, Article 24 or Article 25 of the Act. In such an event the Child Protection Committees shall provide one another with the information necessary to deal with the case and assist in implementing measures to ensure the child's welfare.

If a Child Protection Committee places a child or youth in residence in another district it shall continue to handle that child's affairs. It may, however, request that the Child Protection Committee in the district in which the child is resident assume certain responsibilities. The Child Protection Committee in the district in which the child resides is responsible for informing the Committee which placed the child there if its circumstances change to the extent that special intervention is deemed desirable.

### CHAPTER III

#### Concerning the National Council for Child Protection

##### Article 9

##### *Composition of the National Council for Child Protection.*

The Minister of Social Affairs shall appoint a National Council for Child Protection of three members and three alternates for a period of four years at a time. The chairman of the council shall be eligible to serve as lower court judge, cf. Article 5 of the Act concerning the separation of administrative and legal authority at district level, with subsequent amendments. Council members shall be known to be of high moral character and have specialised knowledge of children's and youth affairs. The Minister shall appoint the chairman and vice-chairman of the council.

The Minister determines the compensation of the members of the National Council for Child Protection which is paid from the national treasury in addition to any additional costs incurred by the Council.

##### Article 10

##### *Role of the National Council for Child Protection*

It is the duty of the National Council for Child Protection to act as the final authority in cases which are referred to it in accordance with the final sentence of the second paragraph of Article 3 and the first paragraph of Article 49.

The National Council for Child Protection shall have specially trained staff in its service and other staff as necessary. The National Council for Child Protection may also seek the advice of outside specialists if such is deemed necessary.

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<sup>1</sup> Art. 4. Act No. 22/1995

## Article 11

### *Meetings of the National Council for Child Protection*

The National Council for Child Protection is legally constituted when all members are present and two of them are in agreement on a question. An alternate shall replace a council member who has notified that he is unable to attend or is ineligible, cf. fourth paragraph of Article 49, cf. Article 42.

The National Council for Child Protection shall meet as required.

The decisions of the Council shall be recorded in the minutes. The Minister shall, in a Regulation, lay down provisions to prescribe the working procedures of the National Council for Child Protection.

## CHAPTER IV

### **Obligations regarding notification and other obligations towards child protection authorities**

#### Article 12

#### *Obligation of the general public regarding notification*

Anyone who becomes aware that a child is mistreated, its upbringing neglected, or its circumstances so deficient that this presents a threat to the child, is obligated to notify the Child Protection Committee where the child is resident.

In addition, every person has the right to inform a Child Protection Committee of any matter which may be expected to deserve its attention.

#### Article 13

#### *Obligation of parties involved with children and youth regarding notification*

Anyone who, because of his employment or position, is involved in dealing with children and youth and who becomes in the course of his work aware of unacceptable breaches in the upbringing and circumstances of children and youth is obligated to notify a Child Protection Committee of such.

Nursery school teachers, private child minders, teachers, ministers, doctors, midwives, nurses, psychologists, social workers, and others who are responsible for social services or counsel are especially obligated to take note of the behaviour, upbringing and circumstances of children and youth whenever possible and inform a Child Protection Committee if it appears that a child's circumstances call for the intervention of a Child Protection Committee. The obligation to notify in such cases takes precedence over legal provisions regarding the obligations of the professionals concerned regarding confidentiality.

#### [Article 14]<sup>1</sup>

#### *Obligations of police and others concerning notification*

Should a child or youth be suspected of having committed, or having been the victim of, a criminal offence, the police investigating the case shall notify a Child Protection Committee and allow it to follow the investigation of the case. The Child Protection Committee shall notify the child's parents of the case, provided this is not contrary to the child's interests.

Should a child be questioned by police the latter shall allow a Child Protection Committee to send a representative or member of its staff to be in attendance at the questioning. The police may demand this if they feel it necessary. Should a parent request to be present when his child is questioned this shall be permitted unless the police decide otherwise in the interest of the child or because the presence of the parent is deemed to interfere with the investigation.

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<sup>1</sup> Art. 5, Act No. 22/1995.



Should a child be questioned as evidence for court the prosecution shall notify a Child Protection Committee. The Child Protection Committee may send a representative or member of its staff to be in attendance at the questioning. Should a parent request to be present when his child is questioned this shall as a rule be permitted. A judge shall decide in the event of disagreement on this question and his decision may not be appealed.

#### Article 15

##### *Anonymity of the notifying party*

Should the individual who informed the Child Protection Committee request to remain anonymous to parties other than the Committee his request shall be respected unless special circumstances make this inadvisable.

#### Article 16

##### *Co-operation with Child Protection Committees*

Anyone, who because of his employment or position is involved in dealing with children and youth, such as personnel in health care, schools, day care institutions for children and law enforcement, is obligated to contribute to the efficacy of measures for child protection and shall co-operate with the child protection authorities for this purpose.

The child protection authorities shall in a similar manner co-operate with those individuals who because of their employment or position are knowledgeable with regard to the affairs of children.

Schools and day care institutions are obligated to co-operate closely with Child Protection Committees with regard to providing support for children and their families who are in difficult social circumstances.

Institutions providing social services and health care, including institutions offering treatment for alcoholism and psychiatric wards, shall organise the services they provide for children's parents in such a way as will best serve the interests of their children.

Policemen ...<sup>1</sup> and prison authorities are obligated to co-operate with Child Protection Committees and assist them in finding remedies in child protection cases.

The Minister shall in a Regulation lay down rules for the co-operation of the child protection authorities with other institutions in consultation with those ministries which are competent in each case.

### CHAPTER V

#### **Obligations of the child protection authorities toward individual children and youth and their families**

##### Article 17

##### *Duties of parents*

Parents shall fulfil their duties as custodians and child raisers in the manner which best suits the circumstances and needs of the children, cf. Article 29 of the Children Act. The Child Protection Committee is responsible for assisting parents in carrying out their parental duties and for taking suitable measures as provided for in this chapter if need requires. In so doing it shall as a rule take care to attempt to apply general measures to provide support for the family before resorting to coercive measures. The course adopted shall always, however, be the one which appears to be in the best interests of the child or youth.

##### Article 18

##### *Investigation of a case*

Should a Child Protection Committee have reason to believe that:

a) the physical or mental health of a child or its development could be endangered as a result of the negligence, incapacity or conduct of its parents, or

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<sup>1</sup> Art. 6, Act No. 22/1995.

b) that a child or youth is endangering its own health or development through its behaviour, the Committee must investigate the case without delay.

It shall endeavour to acquire the most comprehensive information possible regarding the circumstances of the children or youth in question, their relationship with their parents or others and circumstances at home, record at school and behaviour at home and elsewhere, in addition to their mental and physical state. The assistance of specialists shall be sought as required.

In other respects the provisions of Article 43 concerning the authority of Child Protection Committees and their staff to investigate cases shall apply.

Parents and other individuals in whose home the child resides must offer their assistance in order that the investigation of the case may proceed smoothly and the Child Protection Committee shall show proper discretion in its dealings with all parties concerned in the case. The investigation shall not be more extensive than necessitated by the circumstances.

#### Article 19

##### *Plan of procedure in a case*

Should it become evident that the circumstances, care or upbringing of a child is inadequate due to the negligence, incapacity or conduct of its parents or that a child is endangering its own health or development through its behaviour, e.g. through illegal acts or drug abuse, the Child Protection Committee shall have a written plan of procedure prepared for the case.

In the plan it shall specify what actions it proposes in the best interests of the child, for instance what assistance the parents should be offered to enable them to retain custody of the child and also what the parents must themselves do in order to be allowed to continue to do so.

#### Article 20

##### *Registering of children at risk*

The Child Protection Committee shall compile a special register of the children and youth in its district which it considers to be especially at risk, as described in the first paragraph of Article 18 and the first paragraph of Article 19, with the aim of ensuring a proper perspective and continuity in the treatment of such cases. Should circumstances change so that the child, in the view of the Committee, is no longer considered to be at risk its name shall no longer remain on the register. Parents shall normally be informed of the fact that their child is listed on this register, cf. the third paragraph of Article 43, unless this is considered to be against the child's best interests in the opinion of the Committee. The Ministry shall in a Regulation lay down rules for the system of registering and the treatment of information in accordance with these provisions and the Confidential Information Act, No. 121/1989.

#### Article 21

##### *Supportive measures*

Should the investigation reveal a need for action on behalf of a Child Protection Committee it shall, in co-operation with the parents and having regard to the situation of the child or youth concerned, offer assistance in an appropriate manner by:

- a) instructing parents concerning suitable care and environment for a child,
- b) providing a child or family with a contact person, a personal counsellor or a support family,
- c) providing a child or youth with day care, placement in a school, employment or possibilities for healthy recreation activities,
- d) applying general remedies to the situation as provided for in other laws, such as the Act on Local Authorities' Social Services and the Handicapped Affairs Act,

e) assisting the parents in seeking treatment for illness, alcohol or drug abuse, or other personal problems,

f) removing the child temporarily from the home and placing him or her in a institutional or foster home,

g) assuming the custody of the child with the consent of the parents, cf. Article 44, finding it a permanent foster home and seeing to it that a legal guardian be appointed.

The Ministry shall issue a Regulation<sup>1</sup> regarding the measures indicated in point b) of this Article.

#### Article 22

##### *Obligations of Child Protection Committees with regard to children and youth at risk due to their own behaviour*

Should a child or youth be endangering his health or development through its own behaviour, e.g. through the abuse of alcohol or other narcotics, with illegal acts or other equally harmful behaviour, the Child Protection Committee shall provide special assistance in the form of consultations, counselling, placement in an institution or home<sup>2</sup>, or other available means of support.

In a situation such as is described in the first paragraph, the Child Protection Committee, in consultation with the parents, is authorised to place the child in a suitable institution for examination and short-term treatment for a period of up to four weeks at a time. If a child aged twelve years or older is opposed to the placement it shall have the opportunity of stating its case to the Committee with the assistance of a special spokesman if provided with such, cf. the second and third paragraphs of Article 46. A child younger than twelve years of age may be given the opportunity of stating its case in like manner if it so desires.

Should a Child Protection Committee consider there to be no alternative to placing a child in an institution against its will due to the fact that it is seriously endangering its own health or development by the abuse of narcotics it may apply to the Ministry of Justice for permission to place the youth in a hospital ...<sup>3</sup> in accordance with the Legal Majority Act, No. 68/1984.

#### Article 23

##### *Obligations of Child Protection Committees toward children and youth subject to harassment, violence or other abuse*

Should a child or youth be subject to harassment, violence or other abuse the Child Protection Committee shall assist it through counselling or treatment as appropriate. The Child Protection Committee is then authorised to follow the investigation of the case, cf. the second paragraph of Article 14. Furthermore, the Committee may appoint a special spokesman for the child, cf. the third paragraph of Article 46.

Should the Child Protection Committee learn of the deficient behaviour of an individual who in the course of his work is involved with children it shall intervene in the case and make suggestions to improve the situation.

#### Article 24

##### *Remedies without the consent of parents*

Should the Child Protection Committee consider it definite that the health or development of a child is endangered by the negligence, incapacity or conduct of parents it may issue a ruling providing for the following actions:

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<sup>1</sup> Reg. No. 452/1993.

<sup>2</sup> Point a), Art. 7, Act No. 22/1995.

<sup>3</sup> Point b), Art. 7, Act No. 22/1995

- a) to provide for surveillance of the family;
- b) to set certain requirements for the circumstances and care of the child, for example, with regard to day care, school attendance, medical care or other treatment or training;
- c) to provide for the removal of the child from the home, its detention in a foster home or residence, medical examination, hospitalisation or placement in another institution to ensure its security or so that it may be possible to carry out satisfactory investigation of the child;
- d) to prohibit the child from being taken out of the country.

Decisions taken pursuant to this Article shall always be provisional and may not last for a longer period than is necessary in each case and shall be reviewed at least every six months.

#### Article 25

##### *Loss of custody*

A Child Protection Committee can issue a ruling depriving one or both parents of custody of a child if:

- a) the upbringing, daily care or relations of the parent with the child are seriously deficient with respect to its age and development,
- b) the child is ill or handicapped and its parents are not providing it with suitable treatment, training or instruction,
- c) the child has been mistreated, sexually abused or has suffered serious mental or physical harassment or humiliation in the home,
- d) it may be considered certain that the child's physical or mental health or development is at risk due to the fact that its parents are obviously incapable of guardianship, for instance, because of drug or alcohol abuse, serious mental illness or mental deficiency, or because the behaviour of the parents is likely to cause the child serious harm.

A ruling to remove a child from custody shall only be issued should it not be possible to apply other measures to improve the situation in accordance with Articles 21 and 24 or if such measures have already been thoroughly pursued without sufficient success. In the case of a new-born child of which the parents have not yet assumed care, any ruling pursuant to point d) of the previous paragraph may only be authorised if suitable measures in accordance with Article 21 have been tried to the utmost without success.

#### Article 26

##### *Appointment of a legal guardian*

If a child has been removed from the custody of its parents the Committee assumes custody provisionally and shall see to it directly that the guardian authority appoint the child a legal guardian, cf. the second paragraph of Article 27 of the Legal Majority Act, No. 68/1984. The Child Protection Committee shall assume custody of a child which lacks a formal guardian and in a similar manner see to it that the child is appointed a legal guardian.

#### Article 27

##### *Children shall be ensured of proper care*

When the Child Protection Committee decides on the placement of a child in accordance with the provisions of points f) and g) of Article 21, the second and third paragraph of Article 22, point c) of the first paragraph of Article 24, Article 25 and Article 26 it shall without delay ensure the child of proper care. The Child Protection Committee shall compile a written plan of procedure specifying, for instance, whether and when the child may return to its parents or whether it shall be placed in a permanent foster home.

In the case of siblings every attempt shall be made to find a common solution in accordance with their needs.

Should a child reach the age of sixteen years in a home where it has been placed by the Child Protection Committee the Committee is then responsible for assisting it as long as is necessary.

#### Article 28

##### *Expulsion of a resident of the home*

If a Child Protection Committee considers a child to be at risk because of the actions or conduct of a resident of its home, for instance, because of violence, physical and verbal threats, drug abuse or other conduct referred to in Articles 63 to 66, and that apart from this the well-being of the child or youth in the home was possible, the Committee shall, if reprimands or other measures prove to no avail, seek his expulsion from the home through directly enforceable action, cf. Chapter 12 of the Act concerning Legal Enforcement. It is then authorised to have the individual concerned expelled from the home temporarily or permanently if he fails to mend his ways, cf. Article 61.

### CHAPTER VI

#### Concerning the placement of children in foster homes

##### Article 29

##### *Foster homes*

For the purpose of this Act the term foster home refers to special foster parents in whose custody or care a Child Protection Committee places a child when:

- a) this is agreed to by its natural parents,
- b) a child lacks a formal guardian,
- c) the natural parents have been deprived of custody or a child is provisionally in the custody of a Child Protection Committee.

Foster homes may be of two types, temporary or permanent. The term permanent foster home refers to a placement which is to last until the provisions for the care of the child legally expire. In such a case foster parents are generally entrusted with custody of the child as provided for in Article 29 or the Children Act, unless another legal form is deemed to serve the needs and interests of the child better in the opinion of the Child Protection Committee. An agreement on a permanent foster home for a child shall generally not be negotiated until after a trial period, which shall be no longer than one year.

##### Article 30

##### *Foster parents*

[The Government Agency for Child Protection shall assist the Child Protection Committees in finding suitable foster parents. The Agency shall assess the capability of prospective foster parents and provide training courses for their education.]<sup>1</sup>

The Child Protection Committee shall select foster parents with care and with consideration for their circumstances, capability and experience as suitable raisers of children. Furthermore, foster parents shall be selected especially with a view to the interests and needs of the child concerned. [The Child Protection Committee shall consult with the Government Agency for Child Protection concerning the choice of foster parents.]<sup>2</sup>

The Child Protection Committee shall assist and prepare the foster parents prior to placing the child in their hands and in addition offer them support and instruction as necessary while the child is in their care. A representative of the Child Protection Committee shall visit the foster home at least once each year.

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<sup>1</sup> Point a), Art. 8, Act No. 22/1995.

<sup>2</sup> Point b), Art. 8, Act No. 22/1995.

### Article 31

#### *Agreement on a foster home*

Provision for a foster home shall be made in a written agreement between the foster parents and the Child Protection Committee. The following provisions shall be contained in the agreement:

- a) who is to have custody of the child and to what areas this extends, cf. Article 29,
- b) the proposed length of time, i.e. temporary or permanent foster home,
- c) payment of support and other expenses for the child, remuneration to the foster parents, for instance, cf. Article 32,
- d) visiting rights, of natural parents and other persons,
- e) support of the Child Protection Committee for the child and its foster parents during the time it dwells in the foster home,
- f) other details of significance.

The [Government Agency for Child Protection]<sup>1</sup> shall draw up special forms for agreements on foster homes.

### Article 32

#### *Payment of support and other expenses incurred by children in foster homes*

If the Child Protection Committee has placed a child or youth in a foster home or elsewhere in accordance with the provisions of this law, the State Social Security Institute shall pay the prescribed support benefits and shall be reimbursed by the legally responsible local authority. Any other expenses incurred by the child shall be paid by the local authority.

All expenses incurred by the Child Protection Committee in any placement of children and youth from other districts shall be reimbursed by the local authority concerned unless otherwise provided for by law.

The Child Protection Committee shall notify the State Social Security Institute of agreements concerning foster homes in accordance with specific rules to be laid down by the State Social Security Institute.

### Article 33

#### *Contact between a child in a foster home and its natural parents*

A child dwelling in a foster home, with or without the consent of its parents, has the right to visit them and others close to him. The natural parents are obligated to fulfil their duty to keep in contact and communicate with the child and follow the specific conditions set for this contact by the Child Protection Committee. Provision shall be made for this contact in the agreement concerning the foster home, cf. point d) of Article 31.

Should special circumstances make it, in the opinion of the Child Protection Committee, against the best interests and needs of the child for it to have contact with its parents the Committee may issue a ruling that no visiting rights will be granted or alter a previous decision on visiting rights in a ruling. Furthermore the Committee may in such cases prohibit any and all communication between parents and child.

The Child Protection Committee can issue a ruling that the dwelling place of the child be kept secret if the interests of the child so require.

The Child Protection Committee shall take the final decision regarding the contact between a child in a foster home with its natural parents.

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<sup>1</sup> Art. 9, Act No. 22/1995.

#### Article 34

##### *Right of a child in a foster home to know the facts of the case*

The Child Protection Committee shall as appropriate inform the child as to the reasons for its placement in a foster home in so far as this is advisable in consideration of the age and development of the child. The child shall similarly be informed of the plans the Child Protection Committee has for its future.

#### Article 35

##### *The Committee is authorised to order that a child remain in a foster home*

Should parents who have agreed to have their child placed in a foster home express the wish to revoke that agreement the Child Protection Committee shall take over the handling of the case. In seeking a solution the prime concern shall be the welfare of the child. The Child Protection Committee is normally authorised to order that a child which has been placed in a foster home shall remain with its foster parents if it is well cared for and if it is in the interests of the child to do so.

#### Article 36

##### *Consent of the Child Protection Committee*

No one may offer a child a foster home without the consent of the Child Protection Committee in the district where he is resident nor may a child be placed in a foster home except with persons who have received the authorisation of the [Government Agency for Child Protection.]<sup>1</sup>

#### Article 37

##### *Negligence of foster parents*

Should the Child Protection Committee be informed that individuals caring for a child in a foster home are neglecting their childraising duties it shall take the measures it deems necessary for the protection of the child or youth. The Committee may prohibit these foster parents from offering children a foster home in the future.

#### Article 38

##### *Revision of the agreement on a foster home*

If the circumstances of the foster parents change, for instance, due to divorce, death in the family or transfer of residence, the Child Protection Committee shall be notified and may review the agreement concerning the foster home if it considers this necessary. The foster parents may also request that an agreement be reviewed.

#### Article 39

##### *Registration and implementation*

[The Government Agency for Child Protection shall keep a register of children in foster homes.]<sup>2</sup>

The Minister of Social Affairs shall issue a Regulation setting rules for the implementation of the Act regarding foster homes.

### CHAPTER VII

#### Article 40

##### *Parents themselves place their child outside the home*

Parents may themselves decide to entrust the daily care and upbringing of their children to others, in so far as such is not contrary to the best interests of the child. Parents

<sup>1</sup> Art. 10, Act No. 22/1995.

<sup>2</sup> Art. 11, Act No. 22/1995.

shall, however, notify the Child Protection Committee when a child is placed in the care of others and the stay is intended to last longer than six months. It is unnecessary to give notification if the child is staying with relatives unless this is intended to be a permanent situation. The Committee is to be informed without exception if a child's stay has lasted for the period specified above.

The requirement regarding notification referred to in the first paragraph does not apply when the placement is necessitated by the child's attendance at school, when a child is placed in a public institution because of its health or development or when the child has reached the age of fifteen years.

When the Child Protection Committee receives notification as provided for in the first paragraph or is informed in any other manner of a placement for which the requirement of notification applies it shall investigate whether there is a need to offer the parents support to enable them to have their child at home. If this is not the case the Committee shall investigate whether the needs and interests of the child are being met in its proposed new residence. The investigation may be waived if sufficient information is already available with regard to the new home.

If the child has been in the care of other individuals, cf. the first paragraph, for three months or longer in accordance with this Article the Child Protection Committee can prohibit its removal temporarily. The Child Protection Committee then must, within three months, issue a ruling prescribing the child's place of residence. The Child Protection Committee is then authorised to order that the situation shall continue if the child is well looked after and removal would be against its best interests and needs.

## CHAPTER VIII

### Procedure

#### Article 41

##### *Legally constituted Committee*

The Child Protection Committee is legally constituted when half of its members, including the chairman or vice-chairman, attend a meeting. Should necessity prevent a member of the Child Protection Committee from attending a meeting he shall notify the chairman beforehand if possible. The chairman shall then summon an alternate in his stead.

#### Article 42

##### *Ineligibility of Committee members*

With regard to the ineligibility of Committee members to deal with individual cases the rules concerning the ineligibility of lower court judges to deal with civil proceedings shall apply as appropriate. The same shall apply to staff of Child Protection Committees.

#### Article 43

##### *Obligation to investigate and sources of information*

Before the Child Protection Committee finalises its treatment of a case it shall obtain as comprehensive information as possible regarding the situation of the child or youth, cf. paragraphs 2 to 4 of Article 18.

In investigating the situation of a child or youth the Child Protection Committee, its staff or others to whom it has entrusted this work especially, are authorised to obtain reports from the parents or guardians of the child or youth, and call in for questioning anyone in its district who is able to give information. With regard to the rights of these individuals to refuse to testify the legal provisions regarding the treatment of civil cases shall apply. The Committee may also require the witnesses to be questioned by a court inquiry in order to reveal the facts of a case. The child may be questioned separately.

The child or youth's parent or guardian shall normally be informed when its situation is investigated in accordance with this Article.



The Child Protection Committee or its staff are only authorised to enter a private home, day care centre or other location where children dwell for the purpose of investigating the circumstances of a child or youth if the prior permission of its parent or guardian has been obtained or on the basis of a court order, cf., however, the concluding section of Article 47. A judge shall decide on the basis of Article 18 when it is necessary to enter a home.

#### Article 44

##### *Parental consent*

Parental consent as referred to in points f) and g) of Article 21 and point a) of Article 29 shall be in writing and signed in the presence of two witnesses who attest that the parent has been explained fully of the nature and legal significance of the measure.

#### Article 45

##### *Rulings issued by Child Protection Committees*

Cases regarding measures taken with respect to children, youth or their guardians as referred to in Article 24, Article 25, the third to fifth paragraphs of Article 33, Article 35, the fourth paragraph of Article 40 and the fourth paragraph of Article 46 shall be concluded with the issuance of a ruling. If no lawyer is among the members of a Committee the District Magistrate or his legal representative shall assume the position of a member of the Committee with full rights and privileges.

At least four Committee members of the full five or six shall support the ruling. The ruling shall be in writing and include the reasons for this conclusion. A summary of the proceedings shall be given as well as the conclusion and basis for this. Notification of a ruling be given by registered mail or other equally secure method and shall draw the attention of the parties concerned to the fact that it is possible to appeal such a ruling to the National Council for Child Protection, cf. Article 49.

#### Article 46

##### *Procedure in issuing rulings*

Before the Child Protection Committee issues a ruling as provided for in Article 45 it shall instruct the parents or other guardians of a child or youth of their rights according to this law. Furthermore, they shall be given the opportunity of stating their case before the Child Protection Committee, either orally or in writing, for instance, with the assistance of legal counsel. If appropriate the Child Protection Committee may offer the parents financial assistance to cover the cost of legal assistance.

Normally the child should be given the opportunity of expressing his opinion and this must be done if the child concerned is twelve years of age or older.

In special instances the Child Protection Committee is authorised to appoint the child or youth a special spokesman.

The Child Protection Committee shall make available to the parties sufficiently in advance all written documentation upon which they base their conclusions in the case. The Committee may decide in a reasoned ruling that certain data should not be made available if it is contrary to the interests of the child or obtained under promise of secrecy. Similarly, the Committee may decide that the parties may have access to the information but shall not receive copies.

#### Article 47

##### *Emergency measures*

If urgency requires that measures to be taken by the Child Protection Committee be implemented directly the chairman of the Committee or a staff member may take the action required, but he shall bring the case before the Committee without delay, within a week at the outside. If the measure includes actions pursuant to point c) and d) of the first paragraph of Article 24 it must be confirmed with a final ruling from the Child Protection Committee within

two months. In such circumstances the home may be entered, notwithstanding the provisions of the fourth paragraph of Article 43, on the condition that there is reason to believe that a child is in imminent danger.

#### Article 48

##### *Use of force*

If it proves necessary to use force to implement a decision of a Child Protection Committee or the National Council for Child Protection in accordance with this Act the responsibility for enforcement lies with the [police]<sup>1</sup> in a situation of urgency. A representative of the Child Protection Committee or National Council for Child Protection shall, however, always be present if such measures must be resorted to in the child's best interest.

#### Article 49

##### *Right of appeal*

A child's parents, guardians or others closely connected to the child may appeal the ruling of the Child Protection Committee to the National Council for Child Protection for a final decision within four weeks of the time the party concerned was informed of the ruling of the Child Protection Committee. The National Council for Child Protection is obliged to deal with and reach a conclusion in the case promptly.

An appeal to the National Council for Child Protection does not postpone implementation of the decision of the Child Protection Committee. In special instances the National Council for Child Protection may, however, decide that the implementing of an action based on the conclusion of the Child Protection Committee shall be postponed until the National Council for Child Protection has issued its verdict. The National Council for Child Protection shall normally issue its final verdict within six months of the time the case was referred to it.

The National Council for Child Protection may reassess both the legal aspects of the case and the evidence presented. It shall either confirm the conclusion reached in the ruling or reject it, wholly or in part, for instance, by recommending that other measures be taken than those decided upon by the Child Protection Committee. The National Council for Child Protection may also refer the case to the Child Protection Committee for re-examination or seek further evidence itself, through the Committee or through other channels if necessary.

In other respects the provisions of Articles 42 and 43, 45 and 46 shall apply concerning procedure in cases brought before the National Council for Child Protection. In addition the National Council for Child Protection may provide for formal presentation of a case to the council.

#### Article 50

##### *Re-examination of a case*

Should the circumstances of parents change appreciably from what they were when the approval was given or a ruling was issued, with the result that it may be assumed that the parents are now capable of assuming custody of the child, they may request that the Child Protection Committee re-examine their case. The Child Protection Committee shall judge whether a case should be re-examined and answer the request with a protocol. In seeking a solution in such a case the welfare of the child shall always be the deciding factor.

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<sup>1</sup> Art. 12, Act No. 22/1995.

**CHAPTER IX**  
**Concerning institutions**

**Article 51**

*Homes for children and youth*

For the purposes of this heading such homes include: all types of placement homes or treatment institutions for children or youth, centres of assistance or emergency help for youth, summer residences, summer camps or other homes which accept children and youth for care, education or help, for longer or shorter periods of time, and which are not covered by other laws.

...<sup>1</sup>

Child Protection Committees, working separately or in co-operation, shall be prepared, through the operation of placement homes or other means, to accept children who need a haven due to circumstances in their homes, for instance, because of the absence of their parents, neglect or ill treatment of a child, or while their circumstances are being investigated, cf. Article 18.

Private organisations or other parties are authorised to set up homes or institutions offering support to children and youth if the project has been approved by the [Government Agency for Child Protection.]<sup>2</sup>

[Parties accepting children for care in private homes on a commercial basis, for payment intended to extend for a period of up to six months, shall apply to the Child Protection Committee in their local district for permission to do so.]<sup>3</sup>

[The Ministry of Social Affairs shall ensure the availability of specialised homes and institutions for children and youth when the remedies of Child Protection Committees pursuant to Article 21 and the first paragraph of Article 22 have not proved effective. This refers to homes and institutions providing specialised treatment, such as treatment for alcohol and drug abuse, and emergency custody due to suspected criminal offences and serious behavioural problems. Such homes and institutions may be operated by the national government or by private parties under the supervision and monitoring of the Government Agency for Child Protection. The Minister shall issue a Regulation prescribing in detail the activities of homes and institutions operated by the national government.]<sup>4</sup>

**Article 52**

*Permission to operate a home*

[No one may establish or operate a home or institution as referred to in the second and third paragraphs of Article 51 except with the authorisation of the Government Agency for Child Protection.]<sup>5</sup> The opinion of the Child Protection Committee where the home is to be located shall be sought if this Committee is not already involved in the operation.

[The Government Agency for Child Protection shall draw up and issue specific rules and instructions regarding the direction, staff, in particular with regard to their education and qualifications, and facilities in general in homes and institutions operated by private parties and local authorities pursuant to Article 51.

The Minister of Social Affairs shall issue a Regulation on the activities of homes accepting children for care, in accordance with the fourth paragraph of Article 51, and on the conditions for their authorisation.]<sup>6</sup>

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<sup>1</sup> Point a), Art. 13, Act No. 22/1995.

<sup>2</sup> Point b), Art. 13, Act No. 22/1995.

<sup>3</sup> Point c), Art. 13, Act No. 22/1995.

<sup>4</sup> Point d), Art. 13, Act No. 22/1995.

<sup>5</sup> Point a), Art. 14, Act No. 22/1995.

<sup>6</sup> Points b) and c), Art. 14, Act No. 22/1995.

## Article 53

### *Supervision of homes*

[In its own district a Child Protection Committee shall supervise the activities of homes and institutions which operate according to the provisions of this chapter unless such supervision has been legally entrusted to other parties. The Child Protection Committee shall monitor the situation of and facilities provided to children in such homes and institutions and take care that no homes or institutions are operated for children in its district other than those which have received authorisation pursuant to this Act.]<sup>1</sup>

No physical or mental punishment is to be applied in homes or institutions for children and youth.

[Child Protection Committees and the Government Agency for Child Protection shall have unrestricted access to information concerning the operation of those homes and institutions which they are to monitor in accordance with this Act, and furthermore to information concerning the facilities and situation of the children residing there.

Should the treatment received by a child in a home or institution which a Child Protection Committee is to supervise, in accordance with the first paragraph, be considered improper in the opinion of the Committee, or the operation of such a home or institution be deficient in any other way, the Committee shall endeavour, through instruction or reprimand, to have the situation rectified and set a specific deadline for so doing. Should this prove to no avail it shall place the matter in the hands of the Government Agency for Child Protection.

The Government Agency for Child Protection may, on the recommendation of a Child Protection Committee or on its own initiative, revoke authorisation for the continuing operation of the home or institution, if a child is receiving improper treatment or if the operation of the home or institution is deficient, and the deadline which the Agency has set for the rectification of such has passed without the deficiency having been rectified.]<sup>2</sup>

## CHAPTER X

### General provisions on child protection

#### Article 54

##### *Supervision of the labour of children and youth*

The Child Protection Committee is responsible for making certain that neither children nor youth are overburdened with heavy or unhealthy work, with long or late working hours, or irregular working conditions. Further provisions regarding monitoring of the labour of children and youth are contained in the Occupational Health and Security Act, No. 46/1980.

#### Article 55

##### *Preventive measures against alcohol and drug abuse*

The Child Protection Committee shall take measures to prevent any alcohol and drug abuse in its district. The Committee shall also make an effort to ensure that anyone who sells, obtains for or provides children or youth with narcotics be dealt with as provided for by law.

#### Article 56

##### *Supervision of exhibitions and entertainment*

[A Child Protection Committee shall, as it deems necessary, supervise any dramatic production or other public exhibition or entertainment intended for youth.]<sup>3</sup> Anyone in charge of organising an entertainment gathering or exhibition which children can be expected to attend must notify the Child Protection Committee or its representative and provide the Committee with an opportunity to view the exhibition before it is opened to the public. If the Child Protection Committee considers that the entertainment is in any way injurious to children it

<sup>1</sup> Point a), Art. 15, Act No. 22/1995.

<sup>2</sup> Point b), Art. 15, Act No. 22/1995.

<sup>3</sup> Art. 16, Act No. 22/1995.

may prohibit children younger than a certain age from attending. Those in charge of the entertainment shall make mention of such prohibition in advertising at their own expense and are responsible for ensuring that the prohibition is respected.

#### Article 57

##### *Curfew for youngsters*

Children twelve years of age or younger may not be out of doors after eight o'clock in the evening unless accompanied by an adult. Children aged from thirteen to sixteen years shall similarly not be out of doors after ten o'clock in the evening unless on their way home from an approved gathering at school or of a sports or youth association. During the period from May 1 to September 1 this authorised time for children to be out of doors is extended by two hours. Local authorities may, however, alter these rules regarding time and age limits by special ordinance.<sup>1</sup>

#### Article 58

##### *Admission of children and youth to dances and other entertainments*

Children younger than sixteen years of age are not permitted to enter or take part in dances except for those especially intended for youngsters or families and organised by schools, youth groups or others who have permission for this purpose. Those in charge of organising dances shall ensure that this provision is respected on penalty of losing their permit to hold public entertainments for a shorter or longer period of time.

Children or youth younger than eighteen years of age are not permitted to enter or remain on premises licensed to sell alcoholic beverages, cf. furthermore Article 20 of the Alcohol Control Act, No. 82/1969, unless accompanied by a parent, other guardian or spouse. Those holding licenses to sell alcoholic beverages shall ensure that this provision is respected on penalty of losing their permits to sell alcoholic beverages.

Youth younger than eighteen years of age may not be employed on premises licensed to sell alcoholic beverages unless this is part of recognised vocational training.

When prohibiting children or youth from attending entertainments, other than on premises licensed to sell alcoholic beverages, the year of their birth and not the date shall be used as reference to determine their age.

### CHAPTER XI

#### Penalties

##### Article 59

It is an offence punishable by fine or detention to supply the Child Protection Committee with incorrect or misleading information with respect to matters covered by this law.

##### Article 60

Should a person fail to notify the Child Protection Committee of such maltreatment or poor circumstances of a child or youth that its life is endangered shall be liable to fines, detention or imprisonment for up to two years.

##### Article 61

Any person who communicates with, visits or inconveniences a child or youth despite the prohibition of such by a Child Protection Committee or who refuses to comply with a ruling by the District or Town Magistrate to absent himself from a home, cf. Article 28, shall be liable to fines, detention or imprisonment for up to two years.

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<sup>1</sup> Reg. No. 84/1995 (Akureyri), Reg. No. 547/1995 (Grýtabakkahreppur), Reg. No. 558/1995 (Ólafsfjörður).

**Article 62**

Anyone who removes a child or youth which has been placed according to this Act by a Child Protection Committee from its residence or causes this placement to be violated shall be punished by fines, detention or imprisonment for up to two years.

**Article 63**

If those who have a child or youth in their care:

- a) cause it serious physical or mental injury,
  - b) abuse it sexually or otherwise, or
  - c) neglect it mentally or physically with the result that its life or health is endangered,
- they shall be liable to fines, detention or imprisonment for up to two years unless more severe punishment is provided for by other laws.

**Article 64**

Anyone who subjects a child or youth to punishment, threats or risks which may be expected to damage the child mentally or physically shall be punished by fines, detention or imprisonment for up to three years.

**Article 65**

If a person incites a child or youth to illegal acts, promiscuity, abuse of alcohol or narcotics or leads it astray morally through other means, he shall be liable to fines, detention or imprisonment for up to four years.

**Article 66**

Anyone who tyrannises a child or youth, treats it rudely or immorally, wounds or offends it shall be punished by fines, detention or imprisonment for up to two years.

**Article 67**

Investigation and prosecution of infringements for which punishment is prescribed by this Act shall be carried out according to the criminal proceedings law.

**Final provisions**

**Article 68**

This Act comes into force January 1, 1993. Act No. 53/1966 concerning the welfare of children and youth, as subsequently amended, is repealed effective the same date.

*Done at Reykjavik, June 2, 1992.*

**Vigdís Finnbogadóttir**

*Ólafur G. Einarsson*