



DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS

**ICELAND: PHASE 2**

**FOLLOW-UP REPORT ON THE IMPLEMENTATION  
OF THE PHASE 2 RECOMMENDATIONS ON THE APPLICATION OF  
THE CONVENTION AND THE 1997 RECOMMENDATION ON  
COMBATING BRIBERY OF FOREIGN PUBLIC OFFICIALS IN  
INTERNATIONAL BUSINESS TRANSACTIONS**

*This report was approved and adopted by the Working Group on Bribery in International Business Transactions on 11 May 2006.*

## TABLE OF CONTENTS

SUMMARY AND CONCLUSIONS BY THE WORKING GROUP ON BRIBERY .....	3
WRITTEN FOLLOW-UP TO PHASE 2 REPORT .....	5

## SUMMARY AND CONCLUSIONS BY THE WORKING GROUP ON BRIBERY

### a) Summary of findings

1. Iceland presented its Follow-up Written Report, outlining its response to the recommendations and follow-up issues identified by the Working Group in Phase 2, at the December 2005 meeting of the Working Group on Bribery.

2. Iceland has not recorded any investigations or convictions for bribery of foreign public officials. Since the evaluation of Iceland under Phase 2 in October 2002, the Icelandic authorities have undertaken several legislative initiatives to implement several of the recommendations made to Iceland, although a number of recommendations made by the Working Group remain to be addressed.

3. The Working Group welcomed the legislative amendments to the foreign bribery offence in order to expressly cover the case where a bribe benefits a third party (and not the foreign public official him/herself) (Recommendation 8). Other amendments to the offence were made, in order to implement the Council of Europe Criminal Law Convention on Corruption. They expand the list of foreign public officials, abolish the requirement of a link with international business transactions, and insert the requirement that the bribe be a gift or other gain “to which [the official] is not entitled”. With respect to the latter amendment, the Working Group questioned how this requirement is to be interpreted.

4. Other key legislative developments appear to be in progress in Iceland. The Permanent Committee on Criminal Law is examining Recommendation 9, which recommends that Iceland consider modifying several pieces of legislation to ensure complete consistency between provisions on the liability of legal persons and the nature of the bribe. The Icelandic authorities expect to present a Bill to Parliament in the first half of 2006.

5. The Working Group noted that there has not been much progress regarding Recommendations 5, 6 and 7, and that Iceland still needs to address these recommendations. The Icelandic authorities stated that any changes in the area of accounting and auditing are pending the implementation of the European Union rules in this area, which necessitates the review of the Financial Reporting Act and of the law governing the auditing profession. Legislative amendments are foreseen in 2006.

6. An important issue identified in the Phase 2 evaluation was the need to clarify and publicise the extent of the obligation of all public officials to report foreign bribery offences of which they become aware to law enforcement authorities. The Icelandic authorities reported that they envisage doing so, but did not advise the Working Group of a plan of action. The Ministry of Finance is currently examining the recommendation on the reporting obligation of tax officials and their co-operation with law enforcement authorities (Recommendation 2).

7. Since the Phase 2 evaluation, the Icelandic authorities have taken measures to enhance the institutional framework for the enforcement of the foreign bribery offence. Additional funding has been allocated to increase the staff of the Unit for Investigation and Prosecution of Serious Economic and Environmental Crimes, and 60% of the law enforcement and legal staff attended training programmes on the investigation and prosecution of serious economic crimes. In view of the Phase 2 Report assessment,

the Working Group encourages Iceland to further its efforts by ensuring that all the agents of the Unit have received training specifically dedicated to foreign bribery (Recommendation 3).

8. The Icelandic authorities reported that much progress has been made within the private sector concerning the adoption of codes of conduct. Yet, questions arise as to the degree of focus of those codes on the offence of active bribery of foreign public officials, especially since the codes of conduct do not address the solicitation of bribes in particular. The Icelandic authorities may want to reflect further on how the newly adopted codes of conduct will be applied in practice to foreign bribery (Recommendation 4).

9. Awareness raising activities targeted at public officials and the enhancement of detection mechanisms are at a much less advanced stage, although they are part of the mandate of several multidisciplinary governmental committees. The Committee on Money Laundering and Related Issues was given the mandate to review the Phase 2 recommendations, but work in this regard has not yet started. So far no procedural guidelines have been established, nor training for the detection of foreign bribery within the agencies that may detect bribery (apart from the law enforcement authorities). Another committee is working on sanctions and investigations of economic crimes and should deliver its report to the Prime Minister within the next six months (General Recommendation and Recommendation 1).

10. Due to the absence of cases of transnational bribery, Iceland was not in a position to effectively address all the follow-up issues contained in the Phase 2 Report of Iceland. A domestic bribery case, for which there had been an acquittal by the time of the Phase 2 examination, raised concerns regarding the interpretation of similar elements in the foreign bribery offence. Since then, the Supreme Court reversed the judgement of the first instance court (General Follow-up). At the time of the on-site visit, Iceland rarely investigated legal persons for economic offences, or applied confiscation and money laundering to offences other than drug offences. The Written Follow-up Report indicates that these measures received more attention over the last two years (Follow-up Issues 11 to 13).

## **b) Conclusions**

11. Based on the findings of the Working Group with respect to Iceland's implementation of the Phase 2 recommendations, the Working Group reached the overall conclusion that Recommendations 3, 4 and 8 have been implemented satisfactorily. The General Recommendation and Recommendation 1 have been partially implemented. Recommendations 2, 5, 6, 7 and 9 have not been implemented.

12. The Working Group invites the Icelandic authorities to report orally on the implementation of the General Recommendation on awareness and Recommendations 1, 2, 5, 6, 7 and 9 within one year, *i.e.* by December 2006.

## WRITTEN FOLLOW-UP TO PHASE 2 REPORT

**Name of country: Iceland**

**Date of approval of Phase 2 Report: February 2003**

**Date of information: November 2005**

### Part I: Recommendations for Action

#### **Text of the General recommendation:**

The Working Group recommends that Iceland develop further efforts to raise the level of general awareness of the offence of bribery in international business transactions as well as enhance mechanisms for the detection of bribery offences (Revised Recommendation, Article I).

#### **Actions taken as of the date of the follow-up report to implement this recommendation:**

*Develop further efforts to raise the level of general awareness of the offence of bribery in international business transactions:*

The Phase 2 Report is published on the web-site of the Ministry. The recommendations have been discussed in meetings between the Ministry of Justice, the Ministry of Finance and Ministry of Commerce, in an informal Policy Group. Also they have been presented in a Committee on Money Laundering and related issues (see answer to recommendation 1).

Furthermore, there are indications that awareness on corruption issues has increased in Iceland over the last years. For example, a case where a former Member of Parliament was found guilty of several offences, including accepting bribery, was widely debated in media and society as a whole.

Frequent evaluations and visits by the OECD Working Group and GRECO have also enhanced discussions and awareness amongst those who were directly involved (i.e. representatives of institutions, organisations and firms). The evaluations got considerable attention in media.

*Enhance mechanisms for the detection of bribery offences:*

The recommendation is under consideration. See answer to recommendation 1.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 1:**

With respect to the public sector, the Working Group particularly recommends that Iceland:

Enhance awareness and establish appropriate procedural guidelines and training for the detection of foreign bribery within the agencies responsible for detecting and/or investigating the offences usually related to bribery offences. (Revised Recommendation, Articles I and IV).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

This recommendation is still under consideration. Following actions have been taken:

1) The Phase 2 Report was published on the web-site of the Ministry. Furthermore, the recommendations have been discussed in meetings between the Ministry of Justice, Ministry of Finance and Ministry of Commerce, in an informal Policy Group. The discussions in the Policy Group have been on a general level, aiming at enhancing awareness within the Ministries, but the responsibility of implementing each recommendation rests within the Ministry concerned.

2) Also, the Minister of Commerce has appointed a formal Committee on money laundering and related issues. Its mandate is to discuss legislation and procedures on money laundering and other corruption offences, especially regarding international obligations, and to enhance cooperation within the public sector and between the public sector and the private sector. The Committee is authorised to appoint subcommittees to discuss and suggest procedural guidelines and training. The chairman of the Committee is appointed by the Minister of Commerce, and other members from the public sector are nominated by the Ministry of Justice, the Economic Crime Unit of the National Commissioner of Police, the Financial Surveillance Authority and the Central Bank of Iceland. One representative is nominated by the private sector and is appointed by the Bankers and Security Dealers Association in Iceland. The recommendations of the OECD Working Group have been introduced in this Committee.

3) No procedural guidelines have yet been established, nor training, for the detection of foreign bribery within the responsible agencies.

4) It is important to note that sanctions and investigations of economic crimes are currently under review in a Committee appointed by the Prime Minister in October 2004. Icelandic Authorities will consider this recommendation more closely when the Committee has delivered its report.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Reference is made to section 4) above. The Committee appointed by the Prime Minister will probably deliver its report within the next 6 months.

**Text of recommendation 2:**

With respect to the public sector, the Working Group particularly recommends that Iceland:

Clarify and publicise the extent of the obligation of all public officials to report bribery offences of which they become aware, and in particular consider introducing a clearer obligation for all tax officials to inform and co-operate with the law enforcement authorities on any suspicion of bribery; (Revised Recommendation, Article I).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

This recommendation has been carefully considered, especially within the Ministry of Justice and the Ministry of Finance. As described in the Phase 2 Report<sup>1</sup>, Icelandic Authorities indicated during the on-site visit that there is no express obligation for public officials to report crimes that they become aware of in the conduct of their functions. Icelandic Authorities explained that the non-reporting would constitute a breach of duty and would be sanctioned pursuant to Section 141 in the General Penal Code. The Ministry of Justice does thus not consider that the recommendation demands the introduction of a provision on criminal liability if the reporting duty is not fulfilled. Therefore, Icelandic Authorities will consider how the reporting duty of public officials can be clarified (and published).

The Ministry of Finance is currently examining this recommendation along with two recommendations made by GRECO, in 2001 and 2004, which concern the same issue.<sup>2</sup> It is the view of the Ministry of Finance that it is necessary to examine these three recommendations in context with each other.

**If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

A decision on measures will be taken by the end of May 2006.

**Text of recommendation 3:**

With respect to the public sector, the Working Group particularly recommends that Iceland:

Maintain the efficiency and specialisation of the Unit for investigation and prosecution of serious economic and environmental crimes; (Revised Recommendation, Article I).

---

<sup>1</sup> Footnote 17, p. 11.

<sup>2</sup> In the First Evaluation Round, GRECO recommended the introduction of legal provisions ensuring that information on corruption offences or suspicions thereof that was received by public officials in the exercise of their duties will be reported to the investigating authorities. In the Second Evaluation Report, GRECO recommends “to introduce clear rules and training for public officials to report unlawful, improper or unethical acts, including corruption in public administration and to enhance the system of protection for those who report such misconduct”.

**Actions taken as of the date of the follow-up report to implement this recommendation:**

The strengthening of the Economic Crime Unit within the National Commissioner of Police has been an ongoing process in the last years. The National Commissioner of Police has received additional funding to increase the staff of the Economic Crime Department, in addition to which substantial budget allocations were made to strengthen the participation in international cooperation.

Budget allocations to the Economic Crime Unit in 2001-2005 have been as follows:

Year	Amount in ISK	Number of staff members in investigations
2001	58.239.000	10
2002	83.134.000	11
2003	108.299.000	14
2004	125.195.000	15
2005	112.893.000	15

The National Commissioner of Police has reported that the Economic Crime Unit and the Police College have run training programmes for policemen and the legal staff of the police on the investigation and prosecution of serious economic crimes, and that 60% of the staff of the Unit have completed such programmes.

Cases investigated by the Economic Crime Unit are examined by a multidisciplinary team consisting of a prosecutor, policemen and other experts as appropriate, these being engaged specially for the individual task at hand. The investigation is directed by the prosecutor, who is responsible for defining the substance of a possible charge and channelling the investigation so as to isolate matters which could, or are most likely to, result in a conviction. When the investigation is complete, the prosecutor decides whether or not there are grounds for prosecution.

It is important to note that the workload of the Economic Crime Unit is immense, and the National Commissioner has stated that there is a need to further increase the staff of the Unit. Furthermore, there is an urgent need to strengthen the department through further education and training.

**If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 4:**

With respect to the private sector, the Working Group recommends that Iceland:

Co-operate with private sector organisations in order to raise awareness of companies, and in particular encourage and promote internal corporate compliance programmes for exporting companies. In addition, guidance by private sector organisations on how to deal with solicitation of bribes would be useful (Revised Recommendation, Articles I and V.C.i and iv).



**Actions taken as of the date of the follow-up report to implement this recommendation:**

There has been much progress in the private sector concerning ethics and codes of conduct. This is mostly caused by the internationalisation of Icelandic banks and other companies and the immense increase of competition in various fields. The Minister of Commerce has also encouraged companies in the private sector to establish corporate codes of conduct.

The private sector is active in this field. The Icelandic Chamber of Commerce, the Icelandic Stock Exchange and the Confederation of Icelandic Employers have adopted guidelines rules on corporate governance and they have encouraged companies to establish their own rules on corporate governance in line with the guidelines.

This is also one of the subjects in a recent report from a special Commission appointed by the Minister of Commerce to make a report on Icelandic business environment. In the report, several suggestions and ideas are put forward for further discussion, both in the private and public sector, in order to strengthen Icelandic business environment. In particular, the Commission has made proposals relating to three areas: corporate governance, financial reporting and auditing, and competition issues. The proposals relate in part to legislation, but in many instances it is considered appropriate and desirable to achieve improvements without legislation.

**If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 5:**

With respect to accounting and audit profession, the Working Group recommends that Iceland:

Encourage the accounting and auditing profession to organise special training sessions focussed on bribery and related offences, in the framework of their professional education and training system (Revised Recommendation, Article I).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

See answer to recommendation 7.

**If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 6:**

With respect to accounting and audit profession, the Working Group recommends that Iceland:

Encourage the adoption of a code of ethics by the auditing profession and reflect further on the rules on the independence of auditors; (Revised Recommendation, Article V.B.ii).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

Code of ethics has not been adopted by the auditing profession. See answer to recommendation 7.

**If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 7:**

With respect to accounting and audit profession, the Working Group recommends that Iceland:

Require auditors to report indications of a possible illegal act of bribery committed by any employee or person acting on behalf of a company to management and, as appropriate, to corporate monitoring bodies without delay. In addition, the Working Group recommends that Iceland consider requiring auditors to report such indications to the competent authorities; (Revised Recommendation, Article V.B.iii and iv).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

Review of the Financial Reporting Act is under way with the aim of implementing rules set by the European Union. The development of financial reporting has been analyzed, both with respect to the accounting standard setting process and specific regulations on accounting measurement issues.

Furthermore, changes are foreseen in Icelandic law governing the auditing profession due to changes in the 8. directive on auditing and the development in Anglo-Saxon countries concerning the auditing profession. On one hand there are issues concerning the profession in general, such as which types of services the profession can provide and how to strengthen its independence. On the other hand the prospective changes concern the auditing process or standards and supervision of the auditing work performed. It is the opinion of the authorities that it is important that all stakeholders in the auditing process take part in the drafting of changes in the legislation concerning auditing as well as in the implementation of international auditing standards.

**If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Legislative amendments are foreseen in 2006.

**Text of recommendation 8:**

The Working Group recommends that Iceland consider the following modifications to its legislation by:

Aligning the language concerning third party beneficiaries in section 109 GPC concerning bribery of a foreign public official with section 128 GPC concerning passive bribery so that third party beneficiaries are clearly covered; (Convention, Article 1).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

Article 109 of the General Penal Code (GPC) on active bribery, and Article 128 of the GPC on passive bribery have been revised in Act No. 125/2003, amending the General Penal Code. The aim of the Act was to make necessary amendments to the legislation for the ratification of the Council of Europe Criminal Law Convention on Corruption. The wording of the Articles is now as follows:

“**Art. 109** [Anyone who presents, promises or offers a civil servant a gift or other gain to which he/she is not entitled for the benefit of himself/herself or others for the purpose of inducing him/her to do or fail to do something linked to his/her official duties shall be subject to imprisonment for up to 3 years or fines in case of mitigating circumstances.

The same penalty shall apply to anyone directing such a message to a foreign official, an employee of an international establishment, a person sitting at the assembly of such an organization or an official Legislative Assembly in a foreign State, a Judge on the panel of an International Court or an employee of such a Court for the purpose of inducing him/her to do or omit something connected with his/her official duties.

The same penalty shall furthermore apply to anyone directing such a message at a person maintaining or ascertaining that he/she may exert abnormal influence on the decision of the person dealt with in para. 1 and 2 of the present Article for the purpose of getting him/her to exert this influence.

The same penalty shall furthermore apply to a person who maintains or ascertains that he/she can exert abnormal influence on the decision of a person dealt with in para. 1 and 2 of the present Article and who demands, accepts or has promised for himself/herself or others gifts or other gain to which he/she is not entitled irrespective of whether the influence is exerted or whether this lead to the goal aimed at] <sup>1)</sup>”

*1) Act 125/2003, Art. 2.*

“**Art. 128** In case a civil servant demands, accepts or has promised to himself or others gifts or other gain to which he/she is not entitled in connection with the performance of his/her work he/she shall be subject to ... <sup>1)</sup> imprisonment for up to 6 years, or fines in case of mitigating circumstances.

[The same penalty shall apply to a foreign civil servant, an employee of an international establishment, a person sitting at an assembly of such an organization or at an official Legislative Assembly in a foreign State, a Judge on the bench of an International Court of Law or an employee at such a Court who demands, accepts or has promised for himself/herself or others gifts or other gain to which he/she is not entitled in connection with the execution of his/her work.] <sup>2)</sup>”

*1) Act 82/1998, Art. 51. 2) Act 125/2003, Art. 3.*

**If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 9:**

The Working Group recommends that Iceland consider the following modifications to its legislation by:

Reviewing the provisions dealing with bribery and considering appropriate changes in order to ensure complete consistency in the terms used in such provisions (e.g. Section 19c of the GPC and Section 1 of Act 144/1998 concerning the natural person triggering the liability of legal persons; Section 109 of the GPC and Section 52 of Act 75/1981 concerning the nature of the bribe and the definition of public officials); (Convention, Articles 1 and 2; Revised Recommendation, Article IV).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

The Ministry of Justice has asked the Permanent Committee on Criminal Law to examine this recommendation and make a suggestion for modifications in the legislation.

**If no action has been taken to implement this recommendation, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Legislative changes would be needed. Possibly a bill will be presented during the spring session of Alþingi (the Parliament) in 2006.

**Part II: Issues for Follow-up by the Working Group**

**General issue for follow-up**

The case law regarding bribery in a general way as it develops. (Convention, Articles 1, 3, 5).

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

*Judgements:*

In February 2003 the Supreme Court of Iceland found a Member of Parliament guilty of several offences connected to corruption (Judgment of 6 February 2003, case No. 393/2002):

Á, a member of the Althing (parliament) was accused on 27 counts for embezzlement, making false statements to the authorities, accepting bribes and misfeasance in office as a member of the Althing, the chairman of the building committee of the National Theatre and the Brattahlíð Committee (the building committee of the Northwest Atlantic Council), during the period 1997-2001.

The matter came to light with a report in the media on 13<sup>th</sup> July 2001 on Á's dealings with a building materials retail company, in which it was alleged that he had purchased goods on the account of the National Theatre for his own personal use. Following discussion in the media, the Auditor-General began an investigation into Á's financial and administrative activities in his capacity as chairman of the National Theatre's building committee. On 27<sup>th</sup> July the Director of Public Prosecutions gave the National Commissioner of the Icelandic Police instructions to launch a public enquiry into the alleged offences by Á. The investigation began the following day with a house search and the seizure of alleged evidential items. On 2<sup>nd</sup> August Á resigned his positions as a member of the Althing and chairman of the National Theatre's building committee. The Auditor-General completed his investigation in the middle of August and sent his report on the case to the economic crime department of the office of the National Commissioner of the Police. The economic crime department completed its investigation in March 2002 and the case was sent to the Director of Public Prosecutions on 26<sup>th</sup> March.

An indictment was issued on 6<sup>th</sup> May 2002 against the member of the Althing and four other persons, and the case was filed for hearing by the Reykjavík District Court on 17<sup>th</sup> May. The accused, Á, pleaded guilty to 12 of the 27 counts in the charge. Following the pleading, the case was referred for judgement on 27<sup>th</sup> June 2002, and the court delivered its verdict on 3<sup>rd</sup> July 2002. Á was convicted of the offences to which he pleaded guilty, and also on a further 6 counts to which he had pleaded not guilty. He was acquitted on 9 counts. The other defendants were acquitted.

The summing-up by the Reykjavik District Court included the following statement on the punishment imposed on Á: “The accused, Á, betrayed the trust he had been shown when he was appointed to perform the public duties listed in the indictment. He committed these offences in his capacity as the holder of a public office (*cf.* Article 138 of the Criminal Code), which the Court interprets as increasing the severity of the penalty, as is described in that provision. The offences committed by the accused are numerous and serious. The sums involved in his offences aimed at enrichment amount to more than ISK 3.2 million, and in addition he committed other offences. As is described in the indictment, Á has repaid a large part of the sums that he embezzled or acquired by other fraudulent means. The punishment imposed on the accused is determined with reference to Article 77 of the Criminal Code. In the light of the foregoing, the Court considers a suitable punishment for Á to be 15 months’ imprisonment. For such serious offences committed in public office as these of which the accused is convicted, the Court does not consider it possible to suspend any part of this sentence.”

An appeal against this judgement was brought before the Supreme Court, which upheld the district court’s conviction judgement and convicted the accused on a further 4 counts. The district court’s acquittal on 5 counts was upheld. The Supreme Court’s summing-up included the following statements: “In determining punishment of the accused, Á, the Court takes note of the legal provisions and matters cited by the district court as the basis of its judgement, and also takes into account the fact that he has been convicted of more offences, so resulting in a larger sum of money than is stated in the district court judgement. At the same time, it must be taken into account that Á resigned his position as a member of the Althing because of the case, and readily admitted some of the charges that were brought against him. The Court considers an appropriate punishment to be 2 years’ imprisonment. The Court concurs with the district court that no part of the sentence can be suspended.” One of the other defendants was convicted by the Supreme Court of having bribed Á as chairman of the building committee of the National Theatre, and sentenced him to 3 months’ imprisonment. The Court saw no reason to suspend this sentence. The other three defendants were acquitted.<sup>3</sup>

*Legislative developments:*

Act No. 125/2003, amending the General Penal Code, making necessary amendments for the ratification of the Council of Europe Criminal Law Convention on Corruption (ETS No.: 173). Ratified 11/2/2004.

**Issue for follow-up (number 10)**

The elements of the offence explored in Phase 1 that are specific to the offence of corruption and whose interpretation cannot be inferred from the application of other similar offences, as well as the coverage of intermediaries and the interpretation of the term “foreign public official”; (Convention, Article 1 and Commentaries 4 to 10 and 12 to 19).

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

In the Phase 2 report, the interpretation of certain elements of the offence is discussed (in Chapter C 2)). A District Court decision in a case against a (former) Member of Parliament is described in the report, but that decision was under appeal in 2002.

As previously described, the Supreme Court of Iceland found in 2003 a (former) Member of Parliament

<sup>3</sup> Judgment of 6 February 2003, case No. 393/2002.

guilty of several offences connected to corruption, one of them was accepting bribery. The person who paid the bribe was found guilty of active bribery and in this regard the Supreme Court reversed the judgment of the District Court of Reykjavík, which had acquitted him of active bribery.

**Issue for follow-up (number 11)**

The criminal liability of legal persons, to ascertain within a reasonable period whether the foreign bribery offence is effectively applied to legal persons; (Convention, Article 2).

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

No case law on the issue of foreign bribery offences.

Additional case law on the criminal liability of legal persons regarding offences against the fishery legislation:

Judgement of the Supreme Court from 20 March 2003 (Case No 473/2002): A company (the owner of the ship which was used to commit the offence) was criminally sanctioned. Fine: ISK 1 000 000. Grounds: The offences in question were considered to give the company a financial advantage.

Recently, some issues have been brought to light concerning the application of individual and corporate criminal liability as provided for in special criminal legislation, in the context of cases of a wide scope that have been given extensive media coverage. On the one hand this relates to alleged criminal offences in the course of transactions between two companies on account of loans that were allegedly in violation of the Joint Stock Companies Act, and/or acquisitive offences within the meaning of the General Criminal Code. On the other hand some issues have been brought up in connection with the imposition by the Competition Council of heavy fines upon four oil companies on account of violations of the Competition Act.

**Issue for follow-up (number 12)**

The application in practice of the universal jurisdiction and international co-operation obligations under the Convention and the effectiveness of the provisions on confiscation, in particular with respect to the possibilities of confiscation from third parties; (Convention, Articles 3, 4, 9 and 10).

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

No new case law on this issue.

New case law on confiscation used in cases of drug offences:

Judgement of the Supreme Court from 20 November 2003 (Case No 333/2003): Confiscation of ISK 570 000 and EUR 300, ISK 306.500 and USD 56. These amounts were seized during the investigation. The Supreme Court did not confiscate other assets (which had not been seized during the investigation).

Judgement of the Supreme Court from 9 June 2005 (Case No 72/2005): The Court held, with reference to its judgement in Case No 333/2003, that the value of gain (from a drug offence) can only be confiscated if it is clear that the assets are available.

**Issue for follow-up (number 13)**

The extent to which Icelandic authorities direct more attention on money laundering linked to forms of criminality other than drug offences, including the bribery of a foreign public official. (Convention, Article 7).

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

New case law on money laundering (linked to forms of criminality other than drug offences):

Judgement of the Supreme Court from 28 April 2005: Embezzlement, money laundering, connivance. Conviction.

Judgement of the District Court of Reykjavík from 3 December 2003: Money laundering linked to abuse of position of a person who has been placed in a position to do something to which another has been confined or handles financial affairs for others.