The United Nations High Commissioner for Human Rights
Palais des Nations
CH-1211 GENEVE 10
SWITZERLAND

Reykjavík, 12 March 2015.

Concerns: Views, adopted by the Human Rights Committee on 24 October 2007, concerning communication No. 1306/2004.

From: Members of the Constitutional Society, an Icelandic NGO

Dear Sirs/Madams.

We wish to call the attention of the Human Rights Committee to Iceland´s failure to honor the binding opinion issued by the committee in October 2007 instructing Iceland to remove the discriminatory and unconstitutional element from its fisheries policy regime and to pay damages to the two fishermen who brought their case before the committee. The UNHRC opinion was addressed in a letter dated 6 June 2008 from Mr. Einar K. Gudfinnsson, Icelandic Minister of Fisheries and Agriculture, where he suggested that it may be impossible to construct a system of fisheries management that would meet all demands, including respect for human rights and equality before the law. A letter to the UNHRC dated 23 June 2008 and signed by Professor Thorsteinn Vilhjálmsson and others (receipt acknowledged by Noemie Crottaz 24 June) protested against the Minister's argument by pointing out that fisheries management is entirely feasible without discrimination among individuals that amounts to human rights violations as detailed in the UNHRC's opinion No. 1306/2004.

In February 2009, a new Minister of Fisheries, Mr. Steingrímur J. Sigfússon, reaffirmed on behalf of the Icelandic government that it had been decided to strengthen the human rights provisions in Iceland´s constitution by adding a clause to the effect that Iceland's fish resources belong to the people. In a letter dated 29 May 2012, the UN Human Rights Office of the High Commissioner informed the government of Iceland that during its 104th session in March 2012 the committee had "decided, in light of the measures taken so far by the State part to give effect to the Committee's Views, not to examine the case further under the follow-up procedure, with a note of a partly satisfactory implementation of its recommendation."

We wish to call the UNHRC's attention to the fact that the government of Iceland has not kept the promise it gave to the UNHRC. A new constitution was prepared in 2011 by an elected Constituent Assembly, and was put by Parliament to a national referendum 20 October 2012. In the referendum, 67% of the voters accepted the new constitution and, moreover, 83% of the voters specifically accepted the following provision on public ownership of natural resources designed to implement the recommendation of the UNHRC:

"Iceland's natural resources which are not in private ownership are the common and perpetual property of the nation. No one may acquire the natural resources or their attached rights for ownership or permanent use, and they may never be sold or mortgaged. Resources under national ownership include resources such as harvestable fish stocks, other resources of the sea

and sea bed within Icelandic jurisdiction and sources of water rights and power development rights, geothermal energy and mining rights. National ownership of resources below a certain depth from the surface of the earth may be provided for by law. The utilization of the resources shall be guided by sustainable development and the public interest. Government authorities, together with those who utilize the resources, are responsible for their protection. On the basis of law, government authorities may grant permits for the use or utilization of resources or other limited public goods against full consideration and for a reasonable period of time. Such permits shall be granted on a non-discriminatory basis and shall never entail ownership or irrevocable control of the resources."

We wish to call the attention of the UNHRC that the government of Iceland shows as yet no sign of its intention to respect the will of the electorate as expressed in the constitutional referendum of 2012. On the contrary, the Icelandic Parliament has put the new constitution on ice in a blatant disregard for the overwhelming outcome of the national referendum. Hence, the chief premise under which the UNHRC decided "not to examine the case further under the follow-up procedure" has proved false.

Further, we wish to call the attention of the UNHRC to a recent (4 June 2012) Reykjavík District Court ruling in a case concerning fishing rights: "The States Parties are not obliged to act upon the [United Nations Human Rights] Committee's views and the Committee does not possess means to enforce them in case a State fails to do so. All the less do the Committee's views constitute precedents for the courts of Iceland." On hearing the same case [No. 652/2012, 26 March 2013], the Supreme Court of Iceland upheld the lower court´s ruling, stating that "The provisions of Article 26 of the International Covenant on Civil and Political Rights and Article 6 of the International Covenant on Economic, Social and Cultural Rights do not alter this conclusion."

Therefore, we urge the Committee to re-examine the case No. 1306/2004 and thus encourage the government of Iceland to cease its practice of human rights violations in the field of fisheries policy.

With respect,

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