



Reykjavik 17 November 2008

Mr. President of the Council of Europe Parliamentary Assembly
Lluís Maria de Puig

With reference to the Rules of Procedure, part XI, rule 52, the Delegation of Iceland to the Parliamentary Assembly of the Council of Europe hereby requests a current affairs debate on the economic collapse of Iceland and its correlation with two separate, but linked actions carried out by public authorities in the United Kingdom.

First, the application of the Anti-terrorism, Crime and Security Act 2001 against the Icelandic bank *Landsbanki* in London, freezing its assets in the U.K. on the 7th of October.

This unprecedented and highly disproportionate action of the U.K. Government classifies an Icelandic company with Al Qaida, Myanmar and North-Korea, all of which are not only sanctioned by the U.K. Government, but also the European Union or the European Union and the United Nations. The Anti-terrorism Act has never before been used against an entity of a European Council state or for that matter an EEA partner or NATO ally. The question arises if the U.K. Government would have done the same given the same circumstances in case of a fellow EU-Country or an ally such as the United States?

Second, the discriminatory decision on the 8th of October to put the subsidiary of another Icelandic bank and the largest bank in Iceland, Kaupthing Bank, without any consultations under administration of the U.K. Financial Services Authority while rescuing other British banks several days later by partly nationalizing them.

At the website of the H.M. Treasury in the U.K. is stated: "The Treasury has taken decisive action to ensure the stability of the UK financial system and to protect the interests of depositors and taxpayers. The Chancellor has put in place arrangements to ensure that all retail depositors in the Icelandic banks of Landsbanki (including their "Icesave" products), Heritable, and Kaupthing Singer and Friedlander (including their "Edge products") will receive their money in full."

The financial situation in Iceland was already grave before the application of the Anti-Terrorism Law by the U.K. Government. Combined with the collapsed of the aforementioned largest bank in Iceland, which came about immediately after its U.K. subsidiary was put under administration in the U.K., all efforts by Icelandic parties to reverse the course or halt the downward development of its financial system became futile. The Icelandic financial system virtually collapsed with devastating consequences for the economy and the residents of Iceland.

In short, one member state of the European Council was instrumental in bringing down the economy of another member state.

These harsh measures were implemented without any consultations with Icelandic authorities or the banks in question.

Given a different response based on rule of law and good diplomatic practices conducted in good faith, it is believed that this financial collapse could have been prevented or at least made less severe.

Also, given that the global financial crisis is the critical outcome of potentially defective regulation, it is a common responsibility to managed the crisis in a constructive and fair manner. It calls a among other things for common solutions taking into account the disproportionate consequences of the global financial crisis for individual states depending on their population size and the size of the banking industry relative to the GDP.

In contrast, the U.K. Government unilaterally resorted to these apparently discriminatory and disproportionate measured against Icelandic banks with grave consequences for the Icelandic economy.

Finally, the justification to apply the Anti-Terrorism Act in case of bank failure raises serious questions about the real intentions behind the application of the Act, not only in the opinion of many in Iceland but also others. To name a few examples, Sir Howard Davies, the former head of the Financial Services Authority, who also served as the deputy governor of the Bank of England and is now director of the London School of Economics, has attacked the Britain's behavior towards Icelandic banks where he claimed that the U.K. Government was using "beggar-my-neighbour" strategy which refer to those that seek benefits for one country at the expense of others. At the same time Sir Davies called for an overhaul of financial regulation. And Mr. Martin Scheinin, the UN Special rapporteur on the protection of human rights in the fight against terrorism, has stated that "Britain's use of anti-terror laws to freeze the assets of failing Icelandic banks shows how such legislation can be abused for purposes other than originally intended."

In light of the above and the attached rationale, the members of the Delegation of Iceland to the Parliamentary Assembly of the Council of Europe request a current affairs debate at the at the Standing Committee Meeting to be held in Madrid 28 of November 2008 on the aforementioned item.

Rationale for the Request for a urgent procedure

The economic situation in Iceland is very grave. The economic turmoil in Iceland is, however, not an isolated event but a part of a global financial crisis. Governments around the world have struggled to rescue their private banks and introduced radical financial measures. Giant financial institutions have collapsed and others have been partly or fully nationalised.

Iceland was among the first countries to become seriously hit in this financial storm and is so far the hardest hit. The causes are to be found in the global liquidity crisis and the relative large size of the Icelandic banking system compared to Iceland's economy.

The size of the banking sector was about ten times bigger than the annual output of the Icelandic Economy. As market trust evaporated, the Icelandic banks quickly became victims to the liquidity crisis, as numerous other banks, despite having considerable assets to match their debts and having operated in full compliance with European banking laws which govern financial services within in the European Economic Area (EEA) of which Iceland and the U.K. are members. Unfortunately, the Central Bank of Iceland could not provide the necessary financial support to its private banks when liquidity disappeared.

In this sensitive situation with Icelandic authorities struggling to manage the crisis, the Government of the United Kingdom applied the Anti-terrorism, Crime and Security Act 2001 against the Icelandic bank *Landsbanki* in London and froze its assets on the 7th of October. Moreover, the subsidiary of Kaupthing Bank in the United Kingdom, Kaupthing Singer and Friedlander, was put into administration by the U.K. Financial Services Authority on the 8th of October. Immediately, Iceland's largest company, Kaupthing Bank, collapsed and went into administration in Iceland. Finally, Prime Minister Brown stated the intention of his Government to freeze the assets of all Icelandic companies in the U.K., later withdrawing that statement.

Subsequently, the Icelandic financial system virtually collapsed with devastating consequences for the economy. GDP is anticipated to go down by 15% in year 2009, unemployment up by 10% and inflation continue to rise.

For ordinary Icelanders, the crisis means that many have lost considerable parts of their life-savings, companies are facing bankruptcy and many are losing their jobs, the Icelandic currency (krona) has fallen dramatically and the currency market and international trade and transactions to and from Iceland have been severely disturbed, and external debt is substantially increasing. Icelandic companies both in and outside the UK have been widely affected as currency transactions to and from Iceland were disrupted as a consequence of the UK action. A large proportion the population is considering emigration.

The collapse has also had severe consequences for people in a number of countries within the EEA who had entrusted the collapsed Icelandic banks with their savings.

As a responsible partner Iceland has addressed these concerns in close cooperation with Governments in the Nordic countries, Belgium, Luxembourg, Germany and other countries, based on the rule of law and good diplomatic practise.

Iceland is grateful for this cooperation and appreciates the understanding shown by other nations to Iceland in these turbulent times.

In contrast, the UK Government decided unilaterally to apply its Anti-Terrorism legislation against Iceland. This came in the form of a freezing order against one of the Icelandic banks, Landsbanki, without any prior consultations with the Government of Iceland.

This unprecedented and highly disproportionate act groups an Icelandic company with Al Qaida, Myanmar and North-Korea.

Moreover, this legislation has never before been used against an entity of a member of Council of Europe or for that matter of an EEA partner or a NATO ally. The question arises if the Government would have done the same given the same circumstances in case of a fellow EU-Country or an ally such as the United States?

According to explanatory notes to the Anti-terrorism, Crime and Security Act 2001, the purpose of the Act is to counter threat to the UK.

The alleged justification for applying the Act against the Icelandic bank was to prevent systemic failure in the banking industry in the U.K.

According to the freezing order, the deposits of the Icelandic bank in question measure up to fulfilling the two conditions necessary to meet to grant the Minister the powers to issue a freezing order, that is (a) action to the detriment of the United Kingdom's economy (or part of it) has been or is likely to be taken by a person or persons, or (b) action constituting a threat to the life or property of one or more nationals of the United Kingdom or residents of the United Kingdom has been or is likely to be taken by a person or persons."

It can be seriously contested if these conditions were really met.

First, the deposits of the Icelandic bank constituted a maximum 0.5% share of the total number of deposits in the United Kingdom. It raises questions about the statement that the Icesave accounts constituted a systemic failure in the banking sector while others did not such as Northern Rock and Bradford and Bingley.

Second, on 1st of October Prime Minister Gordon Brown responded to concerns over the security of depositors that "[t]he current £35.000 ceiling covers 96% of deposits and an increase to £50.000 would leave only 2% of accounts outside the scheme."¹

Finally, the Dutch Government was dealing with the question of Icesave accounts in the Netherlands in the interim by means of bilateral talks.

In conclusion, the justification to apply the Anti-Terrorism Act - to prevent systemic failure of the banking industry in the United Kingdom - does not appear to stand a closer examination. That in turn raises serious questions about the real intentions behind the application of the Act. Prime Minister Gordon Brown and the Minister of Treasury, Mr. Alistair Darling, have been under huge pressure after a series of official inquiries, the latest by the Parliamentary Ombudsman last July, highlighting maladministration by the British government as a critical causal factor in the context of the current banking crisis in Britain.

Many in Britain have condemned the act and accused the ministers for applying the law for the sake of political gains.

Sir Howard Davies, the former head of the Financial Services Authority, who also served as the deputy governor of the Bank of England and is now director of the London School of Economics, has attacked the Britain's behavior towards Icelandic banks where he claimed that the U.K. Government was using so-called "beggar-my-neighbor" strategy which refer to those that seek benefits for one country at the expense of others. In other words, Such policies attempt to remedy the economic problems in one country by means which tend to worsen the problems of other countries. At the same time Sir Davies called for an overhaul of financial regulation.

In the opinion of Mr. Martin Scheinin, the UN Special rapporteur on the protection of human rights in the fight against terrorism "Britain's use of anti-terror laws to freeze the assets of failing Icelandic banks shows how such legislation can be abused for purposes other than originally intended."

No less serious is the second decision to put the subsidiary of the largest Icelandic bank in the U.K. under administration of the FSA as stated above.

¹ http://www.guardian.co.uk/politics/2008/oct/01/creditchunch_savings

The Icelandic Government has always said that it will honor its legal obligations.

Britain and Iceland are members of the European Economic Area and are both guided by European banking laws which govern financial services within in the EEA. But, as many have called for, such as Sir Davies, the former head of the U.K. Financial Services Authority, is an overhaul of financial regulation as they view the global financial crisis as a manifestation of systemic failure resulting from flawed laws that regulated the financial markets.

As rule-of-law states, Iceland and the U.K. have undertaken the commitment to apply the applicable EU directives to guarantee deposits. In case of a dispute over responsibilities, it is assumed that both parties act in good faith and resolve such disagreement by means of negotiations and in accordance with the rule of law, resorting to legal proceedings as a last alternative.

At the same time it is important to deal with the crisis in a constructive and fair manner by taking into account the common responsibility of dealing with the consequences of potentially defective laws and regulations on one hand and its disproportionate consequences for individual states depending on their population size and the size of the banking industry relative to the GDP on the other. At the same time as the Government of Iceland will honor its obligation it has also the responsibility to prevent sovereign default.

The British and the Dutch government are demanding compensation for their citizens who held high-interest deposits in local branches of Icelandic banks. The demands for compensation amount to over at least 60% of Icelandic GDP. In comparison, the total amount of reparations payments demanded of Germany following World War I was around 85% of GDP.²

In conclusion, in times of crisis, solidarity and common solutions is needed. Applying the Anti-terrorism, Crime and Security Act 2001 against an Icelandic bank in a times of crisis was not in the spirit of solidarity or common solution. The same can be said about the discriminatory treatment of the U.K. subsidiary of the largest bank in Iceland, Kaupthing Bank. In contrast, it was an aggressive and disproportionate act measured both against the purpose of the Act and its consequences for the Icelandic economy.

² <http://www.voxeu.org/index.php?q=node/2549>
