

## **Summary of findings**

The purpose of this report is two-fold. Firstly, it is an evaluation of the status of Iceland's accession negotiations with the European Union and secondly it is a coverage of the development within the Union, with equal regard to legal and institutional matters and economic issues.

Below is a summary of the principal findings of the report . As might be expected the report covers a wide variety of subjects and this summary will only cover the main points. The first item is the principal findings regarding the status of the negotiations. Then comes coverage of the development of legal and institutional matters within the European Union. The final item is a summary of the principal findings regarding the economic changes within the Union. For those issues that pertain to development within the Union the main focus is on the time that has passed since Iceland applied for membership to the Union in 2009.

## **Status of the accession negotiations between Iceland and the European Union**

Iceland applied for accession to the European Union in July 2009. There followed a negotiation process, characterised by the European Union's enlargement policy. When evaluating the status of the negotiations it is important to understand the main characteristics and emphasis of the enlargement policy.

Since it was first formed, the enlargement policy has been through various changes that have reflected the economic and political realities of the times. The enlargement policy into which Iceland entered is characterised by stricter conditions for accession than ever before. This is because most of the states that have recently joined the Union, as well as those states currently involved in accession negotiations, are in several ways different from those that were already in the Union. This is true both with regard to economic issues as well as legal and institutional matters.

Although Iceland has already partially adapted itself to the regulatory and institutional framework of the European Union through the Agreement on the European Economic Area, it was clear that the accession process would follow the formal rules currently in force. There was no obvious reason to assume that a derogation from these rules could be gained or the

formal process accelerated. The assumption is that an accession candidate country is seeking membership. The accession negotiations cover the terms of accession and how Iceland will introduce and implement the Union's *acquis*. These are therefore not altogether traditional negotiations.

After the formation of a new government, following a parliamentary election in the spring of 2013, the Icelandic authorities decided to suspend the accession negotiations. At that time 27 chapters had been opened, out of which 11 have been provisionally closed. An additional 6 chapters had not yet been opened, although negotiating positions were in place for two of them, i.e. the chapter on food safety, veterinary and phytosanitary policy and the chapter on justice, freedom and security. A negotiating position was not in place for four chapters, i.e. the chapters on agriculture, on fisheries, on the free movement of capital and on the right of establishment and freedom to provide services.

It is unfortunate for the evaluation of the status of the negotiations that they did not reach the point of opening and submitting a negotiating position for the four aforementioned chapters, not the least since it was clear that there would be several important matters of differing opinion in connection with them.

It is likely that the chapters on the free movement of capital and on the right of establishment and freedom to provide services will be linked to the chapter on fisheries, especially as concerns possible limitations of foreign investment in the Icelandic fisheries sector.

As regards the chapter on fisheries, it is important to iterate that when the negotiations were suspended the European Commission had not submitted its review report and therefore Iceland could not submit its formal negotiating position for the fisheries chapter. As the Icelandic negotiating position was not available it is difficult to know what the negotiating process would have been like; it is clear, however, that the negotiations would have been difficult had they been based on the emphasis proposed in the majority opinion of the foreign affairs committee that was submitted when Althingi agreed to apply for accession. One might mention issues such as formal authority over marine resources, limitations to investments and advocacy at international level. In view of the European Union's progress reports it may be surmised that it would have been difficult to reach an agreement over such issues. The European Union's institutions have a very wide-ranging power to pass legislation on fisheries within the Union. In addition, the European Union alone holds the competence to conserve resources through its common fisheries policy. The conservation of resources not only covers

rules on permitted maximum catches and technical protective measures, but also on marketing issues and the allocation of fishing quotas among the member states and other issues.

It may also be surmised that the dispute over the division and management of the mackerel stocks did nothing to hasten the opening of that chapter, since there were ideas afoot for the European Union to set opening criteria. Such a measurement would have meant that Iceland would have had to submit a schedule of dates showing how and when it intended to adapt to the laws and policies of the European Union.

Matters were different for the chapter on agriculture. Iceland had prepared an action plan on the preparations and submitted it to the European Union. The European Union had approved the plan and invited Iceland to submit a negotiating position for agriculture. The negotiating position was unfinished when the negotiations were suspended. It is likely that the reason was a difficulty in reaching a compromise between the differing opinions within Iceland.

The experience of other states show that no permanent derogations have been given from the common policy of the European Union, because membership means that a state adopts the common policy. It is possible to get temporary derogations, but they are incorporated into the Union's legal acts and can only be changed at Union level. In case of special solutions which may be negotiated it is necessary to state clearly in the accession agreement whether they are to be permanent.

## **Development of the legal and institutional framework of the European Union**

Considerable adjustments took place upon the adoption of the Treaty of Lisbon, which entered into force on 01 December 2009.

When the Treaty entered into force the Union's institutions increased in number from five to seven when the European Council of Heads of State and/or Government and the European Central Bank formally became institutions. This means, inter alia, that these two institutions will be bound by European Union laws and dependent on its judicial controls.

The powers of the institutions have also been reorganised since more policy areas than before now fall under the provisions on normal procedure and on qualified and redefined majority

within the Council. The organisation of decision-making with regard to the process of budgetary procedure has also been altered.

When the Treaty of Lisbon entered into force the European Council became a special institution within the Union. The European Council consists of the Heads of State or Government of the Member States, together with its President and the President of the Commission. The European Union's High Representative for Common Foreign and Security Policy takes part in its work. The European Council is the driving force behind development within the Union and defines the general political directions and priorities thereof. While it does not exercise legislative functions, it does make decisions on several policy areas connected with institutions and instructions to them. It must take its decisions by consensus unless otherwise decreed by the Treaty.

The Council exercises legislative and budgetary functions jointly with the European Parliament. Its role is, *inter alia*, policy-making and coordinating functions, a supervisory function, the making of international agreements and to confer competence on the Commission to adopt legal acts. The Council consists of a representative of each Member State, who may commit the government of the Member State in question and cast its vote. The Council convenes for particular tasks.

The Treaty of Lisbon has introduced some important changes. One is that one of the tasks, i.e. that of foreign and security policy, has been transferred to the Foreign Affairs Council, which makes its policies on the Union's measures against non-member states. The Union's High Representative for Common Foreign and Security Policy presides over the Foreign Affairs Council and also the common security and defence policy. Other tasks will continue under the auspices of the Council. The principal rule within the Council continues to be for all decisions to be made by a qualified majority. In this respect it is also important to note that the rules on the calculation of a qualified majority in the Council have been changed.

The Treaty of Lisbon increased the powers of the Commission. This increase of power is mostly due to the issues that were formerly part of pillar 3 (the police and judicial co-operation in criminal matters) having been moved under the Treaty on the Functioning of the European Union and numerous other policy areas now need a qualified majority and not unanimity in voting in the Council. Under such conditions the Commission's right of initiative is increased and the Council can not alter the Commission's proposal except by a unanimous resolution, except under certain exceptional circumstances.

The EU court is now named *Court of Justice of the European Union*. The term covers the European Court of Justice, the General Court (formerly the Court of First Instance) and various specialised courts. The EU Court has wide-ranging judicial powers.

According to the Treaty of Lisbon the European Parliament shall exercise legislative and budgetary functions jointly with the Council. It shall exercise functions of political control and consultation as laid down in the Treaties. It shall elect the President of the Commission. The European Parliament shall be composed of representatives of the Union's citizens. They shall not exceed seven hundred and fifty in number, plus the President. Representation of citizens shall be degressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than ninety-six seats.

The powers of the European Parliament have grown, not the least as regards legislation within the Union, but also in connection with the election of the President of the Commission after a proposal from the European Council. Aside from this, the Parliament's powers have been extended in relation to the Union's budget so that the budget is now jointly decided by the Parliament and the Council. The Parliament's powers have also increased e.g. with regard to the making of international agreements and the authorisation to make minor amendments.

It can be difficult to discuss democracy and the development of democracy within the European Union. The reason is not the least that the European Union is not a state within the meaning that concept is usually understood to have, and there is little to suggest that it will become a state in the near future. Therefore it can be deceiving to apply, to a supranational institution such as the European Union, those yardsticks that are generally used within democracies to measure the function of democracy.

The institutional structure of the European Union creates a struggle between the demand for more democracy, which usually means direct democracy in which the citizens elect their representatives to manage their common interests, and demands to strengthen the common administration of the elected governments of the member states at European Union level, since the states are the units that form the union.

The Treaty on the Functioning of the European Union now states that the European Central Bank and the central banks of the member states shall form a European System of Central Banks and that the European Central Bank shall implement the monetary policy of the Union in co-operation with the central banks of those member states that have the Euro as their

currency and form the Eurosystem. It also states that the European System of Central Banks shall be governed by the decision-making bodies of the European Central Bank.

As was stated earlier, the Treaty of Lisbon made the European Central Bank into a special institution. This means that it now has various duties in common with the Union's other institutions. The main point is that the independence of the European Central Bank is ensured under the current provisions, which is not a change from the earlier arrangement.

It is a long-held claim that the legislative acts of the Union do not have sufficient democratic legitimacy. Therefore the Union has developed with a view to correcting that democratic imbalance. The Treaty of Lisbon contains direct provisions on this subject which are all aimed at supporting the democratic development.

It is also worth pointing out that the representatives of the citizens of the Union in the European Parliament are elected directly. Its powers within the EU have been constantly increasing and now those powers have been reinforced by the Treaty of Lisbon. Instead of the original arrangement, under which it was sufficient to seek the opinion of the Parliament, the principle is now the joint power of the Parliament and the Council on the basis of a proposal by the Commission in matters of legislation, including in the fields of liberty, safety and justice.

The Treaty of Lisbon has also given the Parliament increased powers in other areas. For example, it elects the President of the Commission on proposal from the European Council, which in turn makes its proposal based on the outcome of the European election.

The influence of the national parliaments of the European Union Member States has also been continually increasing. This influence is no doubt considered necessary to counteract the supposed democratic imbalance, since the European Council has held wide-ranging legislative powers within the EU.

The Treaty of Lisbon also gives the citizens of the EU increased influence and now every citizen of a member state is also a citizen of the European Union and every citizen of the Union shall have the right to participate in democratic collaboration within the union.

It also defined further the ideology behind the principle of subsidiarity, the core of which is that subsidiarity, i.e. that decisions should be taken as close as possible to those they concern, is a more favourable arrangement than centralised government. The principle of subsidiarity

(and the principle of proportionality) applies to the powers of the Union. Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

In this regard it is important to point out that under the provisions of the Treaty on the Functioning of the European Union, its institutions are given the role of introducing and developing a common fisheries policy. The fact that the Union's institutions have been given wide-ranging powers of law-making in a particular field excludes, in principle, the powers of the member states for the same. Therefore, under the general rules of the union legislation, the law-making powers regarding the fisheries lie with the Union and not the member states, which can be considered to have surrendered their right to set rules on this subject, at least in principle. The conservation of biological resources falls under the exclusive competence of the EU. However, the phrase “conservation of biological resources” is interpreted broadly and covers, e.g., rules on permitted maximum catches, technical protective measures and the allocation of quotas among the member states. There is reason to believe that in reality it covers any kind of measure designed to reach the objectives of the Treaty on the Functioning of the European Union. Therefore the principle of subsidiarity does not cover the law-making powers as regards the Union's common policies in various areas. This means that the aforementioned policy area is, in principle, under the competence of the EU.

## **Economic development and outlook**

The European Union is comprised of 28 nation states which are economically different in many ways, with regard to the size of the various economic systems, as well as their wealth, measured as per capita national income.

Forecasts on economic growth in the next few years assume that there will be less economic growth in the European Union than in the United States of America. However, the development of economic growth in specific countries within the Union can differ widely. The inflation rate is different between the European Union member states despite the common market and currency. However, in recent years the differences between the inflation rates across the European Union have decreased considerably. Those countries that had high inflation rates before entering the European Union continued to have them for some time after accession but afterwards it seems that the inflation rates are levelling out across the region.

Most forecasts indicate that the difference in inflation rates between the various European Union Member States will decrease over time.

The European Union member states have had varying success in fulfilling the objectives of the Treaty of Maastricht on operating surpluses and government debt as a proportion of the gross domestic product. The proportion of states unable to meet the objectives has gone up in recent years, reflecting a decline in the situation of the public sector both within the Eurozone and the European Union.

The Euro crisis revealed various faults in the common currency system. The divergence between economic situations inside the Eurozone has caused problems, especially as regards the position of the state finances of specific states. The European Central Bank assumed new roles, secondary to the bank's principal role of supporting price stability. These include participation in costly rescue measures for states that are having difficulties, and also interventions in the financial markets.

Despite the common currency there is a considerable difference in interest rates from one Eurozone country to the next. This applies equally to people and businesses, and interest rates for deposits and loans.

There is a great deal of difference in the unemployment rates from area to area within the European Union. Despite the common labour market it seems that the rate of resettlement between member states is relatively low, and therefore this difference is diminishing quite slowly. Problems have also been revealed with regard to the occupational environment within companies. Towards the end of the last century the productivity gap between the European countries and the United States of America decreased, but just before the turn of the century it began to increase again. When the global financial crisis occurred, productivity continued to increase in the United States while it decreased in Europe.

In recent years the European Union has placed an emphasis on establishing a common energy market, increasing the use of renewable energy sources and improved energy efficiency. The climate has also been given increased importance within the Union's energy policy. The changes in the European Union's energy policy in recent years are, in the main, in line with the policy that had been formed within the Union before Iceland's accession negotiations began and Iceland's negotiating position was decided.

The European Union's common fisheries policy is marked by the problems faced by the fisheries sector in the member states. These problems are of a somewhat different nature than those we have experienced here in Iceland. The biggest issues of the fisheries sector in the European Union member states have been overfishing, over-investing and bad financial standing within the sector. When the latest changes were made to the common fisheries management system, the Union's member states were given more choice than before with regard to decisions on how to reach the objectives of the Union's fisheries management policy. The objectives themselves, and with them the decision-making on the total catch, will continue to be made by the European Union.

In recent decades there has been considerable development in the European Union's common agricultural policy. The aim of the amendments has been to make the producers look more to market conditions and to make their decisions on production in line with the conditions at any given time. Over time, regional policies have become entwined with the common agricultural policy and have gained an increasing weight. There has also been development towards linking regional aid and resources connected with other objectives, e.g. those of the environment and climate.