

**Tenth Meeting of European Labour Court Judges
Stockholm, September 2, 2002**

**Lay Judges
Questionnaire**

ICELAND

**General Reporter: Judge Peter Clark Employment Appeal Tribunal,
London, Great Britain**

**National Reporter: Judge Eggert Óskarsson,
President Labour Court**

1 Does your Appellate Labour Court (ALC) comprise of: -

There is only one Labour Court in Iceland and its jurisdiction is the whole country. The Labour Court's decrees and judgments are final and will not be appealed. Within a week of the pronouncement of judgement or decree the following may, however, be [referred]¹⁾ to the Supreme Court:

1. *[A judgement or ruling of dismissal.]²⁾*
2. *[A judgment]²⁾ of invalidation on the grounds that the case does not fall within the jurisdiction of the Labour Court.*
3. *[An order on the duty to witness, the swearing of oaths and fines for breaches of court procedure under Articles 60 and 63.]²⁾*
4. *[A decision on the imposition of fines on parties under Article 65.]²⁾*

¹⁾ Act. 91/1991, Art. 161. ²⁾ Act. 20/2001, Art. 3.

- (a) a professional judge or judges only?
- (b) lay judges only?
- (c) the tripartite model; ie professional judge(s) plus two (or more) lay judges?

2 What is the composition of your first instance Labour Court?

The Labour Court of Iceland consists of five persons appointed for terms of three years as follows: One by the [Confederation of Icelandic Employers,]¹⁾ one by the Icelandic Federation of Labour, one by the Minister of Social Affairs from three persons nominated by the Supreme Court and two by the Supreme Court, one of whom shall be specially nominated to be the President of the Court. Those two who are appointed by the Supreme Court shall have completed a university degree in Law.

If an employer involved in a case is not a member of the [Confederation of Icelandic Employers,]¹⁾ the judge nominated by the Confederation shall vacate his seat and the employer shall nominate a judge to take his place in the case; he shall do this before the half of the respite of summon has expired, failing which the President of the Court shall nominate a judge. The same shall apply as regards the judge appointed by the Icelandic Federation of Labour when a party to the case is a trade union or federation of trade unions standing outside the overall employees' organization.

The same parties shall nominate deputy judges who shall take their seats when the principal judges are indisposed.

- 3 Are there any plans or proposals currently in place to alter the composition of your ALC? Is so, what? For how long have the present arrangements been in place?

No, mostly since year 1938.

- 4 If lay members do sit in your court with professional judges: -

(a) are there any types of appeal on which professional judges alone

(i) may or (ii) must sit without lay judges? **No**

(b) are lay judges required to adjudicate on questions of law only, or on questions of fact/mixed law and fact as well under the terms of the ALC's jurisdiction?

No

(c) can the lay members outvote the professional judge in decision making?

Yes

- 5 Is there any requirement that at least one lay judge sitting on the panel has particular expertise in a given type of case, eg discrimination cases (race, sex, disability)?

No

- 6 Is there a policy of appointing lay judges from each of the social partners? If so, is it the practice to draw one member from each background to sit with the professional judge on each appeal?

Ref. question 2

- 7 How are lay judges selected for appointment; is it by open competition, recommendation by interested bodies; administrative appointment or otherwise?

Ref. question 2

- 8 For what period of time are lay judges appointed? Are such terms renewable? In what circumstances, other than age or ill health may they be removed from office or their appointments not renewed?

They are appointed for terms of three years which are renewable. The judges shall be Icelandic citizens, in charge of their financial affairs and have an unblemished reputation.

9 What training in law and procedure is given to lay judges of the ALC?

The two judges in the Labour Court who are appointed by the Supreme Court shall have completed a university degree in Law.

10 How often do the lay judges disagree? Is it often, sometime, rarely? Do they see their role as that of independent judge or representative of 'their' side of industry?

Sometimes, they see their role as that of an independent judge.

11 Do you perceive there to be

(a) advantages and (b) disadvantages in sitting with lay colleagues in the ALC? If so, what are they?

Concerning the Labour Court of Iceland I think there are advantages in having lay judges. They usually have special knowledge or experience in matters about labour unions and employers' organizations.

12 Overall, from your experience do you believe that the administration of justice in your ALC is improved or impaired by the presence of lay judges as opposed to professional judge(s) sitting alone? Please say why you reach your conclusion.

Concerning again the Labour Court of Iceland and its role and according to the types of cases that come before the Court I think that the presence of lay judges has proved to be positive.