

Application No. 13291/87

Einar SVERRISSON

against

ICELAND

REPORT OF THE COMMISSION

(adopted on 6 February 1990)

TABLE OF CONTENTS

	page
INTRODUCTION	1
PART I: STATEMENT OF THE FACTS	3
PART II: SOLUTION REACHED	4

INTRODUCTION

1. This Report relates to Application No. 13291/87 introduced against Iceland by Mr. Einar Sverrisson on 7 September 1987 under Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms. The application was registered on 9 October 1987.

2. The applicant was represented by Mr. Eiríkur Tómasson, a lawyer practising in Reykjavík. The Government of Iceland were represented by their Agent, Mr. Thorsteinn Geirsson, Secretary General of the Ministry of Justice, Reykjavík.

3. On 4 December 1989 the European Commission of Human Rights declared the application admissible.* The Commission then proceeded to carry out its task under Article 28 para. 1 of the Convention** which provides as follows:

"In the event of the Commission accepting a petition to it:

a. it shall, with a view to ascertaining the facts, undertake together with the representatives of the parties an examination of the petition and, if need be, an investigation, for the effective conduct of which the States concerned shall furnish all necessary facilities, after an exchange of views with the Commission;

b. it shall at the same time place itself at the disposal of the parties concerned with a view to securing a friendly settlement of the matter on the basis of respect for Human Rights as defined in this Convention."

4. The Commission found that the parties had reached a friendly settlement of the case and on 6 February 1990 it adopted this Report which, in accordance with Article 28 para. 2 of the Convention**, is confined to a brief statement of the facts and of the solution reached.

* This decision is public and can be obtained from the Commission's Secretary.

** As amended with effect from 1 January 1990.

5. The following members of the Commission were present when the Report was adopted:

MM. C.A. NØRGAARD, President
J.A. FROWEIN
S. TRECHSEL
F. ERMACORA
E. BUSUTTIL
A.S. GÖZÜBÜYÜK
A. WEITZEL
J.C. SOYER
H.G. SCHERMERS
H. DANELIUS
J. CAMPINOS
H. VANDENBERGHE
Mrs. G.H. THUNE
Sir Basil HALL
MM. F. MARTINEZ
C.L. ROZAKIS
Mrs. J. LIDDY
Mr. L. LOUCAIDES

PART I

STATEMENT OF THE FACTS

6. The applicant is an Icelandic citizen, born in 1914. He resides at Kaldrananes, Iceland.

7. At the conclusion of a police investigation, an indictment was issued against the applicant charging him with the destruction of public property in violation of Section 257 of the Icelandic Penal Code.

8. By judgment of the District Criminal Court of Vestur-Skaftafellssýsla of 1 July 1986, the applicant was found guilty of the charge brought against him. The imposition of a penalty was, however, suspended for two years, pending compliance with a number of conditions set. The applicant appealed against the judgment to the Supreme Court of Iceland which, however, upheld the judgment on 10 March 1987.

9. Before the Commission the applicant complained that the Government of Iceland had violated Article 6 para. 1 of the Convention on the ground that, on the basis of Act no. 74 of 27 April 1972 on the District Judicial Organisation and the Police and Customs Administration, his case had been investigated by the Chief of Police of Vestur-Skaftafellssýsla and subsequently adjudged by the same official, now in his capacity of criminal court judge of Vestur-Skaftafellssýsla. Therefore, the applicant submitted, he had not been afforded a fair hearing by an independent and impartial tribunal.

PART II

SOLUTION REACHED

10. Following its decision on the admissibility of the application, the Commission placed itself at the disposal of the parties with a view to securing a friendly settlement in accordance with Article 28 para. 1 (b) of the Convention and invited the parties to submit any proposals they wished to make.

11. In accordance with its usual practice, the Commission instructed its Secretary to contact the parties for this purpose. On 29 December 1989 the Agent of the Government addressed a letter to the

Commission containing the following terms of a friendly settlement agreed upon by the parties:

(translation submitted by the Government)

"SETTLEMENT

....

.... On 19 May 1989 the Althing passed a Bill in respect of Separation of District Judicial and Administrative Powers, the enactment of which was approved by the President 1 June 1989. This enactment, Act no. 92/1989, which will enter into effect 1 July 1992, provides that police administration will as from that time be in the hands of district executive agents titled magistrates, and that district court judges, independent and separate from the executive branch of government, resolve issues relating to criminal charges. By a letter dated 28 July 1989 the European Commission of Human Rights was informed by the Government of Iceland that the Government did not object to the admissibility of Mr. Sverrisson's petition, but requested a period for seeking a settlement, which the European Commission of Human Rights granted.

Owing to the enactment of Act no. 92/1989 on Separation of District Judicial and Administrative Powers, and to the stand taken by the European Commission of Human Rights, the Government of Iceland and Mr. Einar Sverrisson are in agreement to settle their dispute on the following terms:

1. That the Government of Iceland reimburse Mr. Einar Sverrisson for his costs of the case paid, Icel. Kr. 51,362, with interest as from 28 March 1988, Icel. Kr. 36,751, or a total of Icel. Kr. 88,113.
2. That the Government of Iceland pay Mr. Einar Sverrisson the costs paid by him for legal assistance on account of his application to the European Commission of Human Rights, totalling Icel. Kr. 81,182.
3. That Mr. Einar Sverrisson undertake, following payment of the above amounts, and without receiving damages or any further payments from the Icelandic State Treasury, to withdraw his application to the European Commission of Human Rights, and not to take legal action against the Government of Iceland before Icelandic or international courts on account of the facts described above.
4. That Mr. Einar Sverrisson accept that the Icelandic State Treasury pay the above payments immediately when the process of his application to the European Commission of Human Rights has been discontinued.
5. That the Icelandic Minister of Justice will request the Public Prosecutor of Iceland to have a comment entered into the State Criminal Registry relating to Einar Sverrisson, stating that owing to the stand taken by the European Commission of Human Rights with regard to the petition of Mr. Jón Kristinsson against the Government of Iceland*, the Government has today concluded a settlement with him providing for reimbursement of the amounts he was ordered to pay to the Icelandic State Treasury by the judgement of the Supreme Court of Iceland pronounced 10 March 1987.

By signing this settlement it is also declared on behalf of Mr. Einar Sverrisson that he agrees that it will be submitted to the European Commission of Human Rights to confirm that he

withdraws his said petition against the Government of Iceland."

12. By letter of 23 January 1990 the Agent of the Government furthermore informed the Commission that on 9 January 1990 the Supreme Court of Iceland pronounced judgment in a criminal case quashing the judgment of a district court on the grounds that the judge in the case was also the deputy of the local chief of police. In the light of this judgment the respondent Government decided to establish independent judges where such judges had not yet been appointed. This decision was executed by issuing a provisional Act on 13 January 1990.

13. At its session on 6 February 1990 the Commission noted that the parties had reached an agreement regarding the terms of a settlement. The Commission further found, having regard to Article 28 para. 1 (b) of the Convention, that a friendly settlement had been secured on the basis of respect for human rights as defined in the Convention.

For these reasons, the Commission adopted this Report.

Secretary to the Commission

President of the Commission

(H.C. KRÜGER)

(C.A. NØRGAARD)

* Kristinsson v. Iceland, Comm. Report 8.3.89.