

A Healing Process

Interview with Eiríkur Bergmann, member of Iceland's Constitutional Council and Director of the Centre for European Studies at Bifrost University (Iceland) on how and why Iceland gives itself a new constitution

How did the project for a new Icelandic constitution emerge?

Eiríkur Bergmann: The current constitution is based on the Danish constitution, which was in 1874 handed to the Icelandic people by the Danish king (Iceland was then under Danish rule). In 1944, Iceland became a republic and the old constitution was taken over – with only minimal changes. For the last 70 years there has been a stride to revisit this text and to write a specific constitution for Iceland, but the parliament failed to deliver. Although there have been regularly minor changes in the last decades, the holistic revision of the constitution had yet to be done.

What role did the breakdown of the Icelandic economy play?

E.B.: In the autumn of 2008, the financial system of Iceland collapsed almost completely in under a week. The financial sector had overgrown the Icelandic economy by more than 10 times the gross domestic product and it was impossible for the small Central Bank to back this up. When the crisis hit Iceland, many people thought that the time was right to rethink the foundations of the state. They called for a revision of the constitution as many felt that the social contract had been breached and that this had led to the crash.

Was the call for a new constitution a consequence of the politic mobilisation in the aftermath of the economic crash (visible in the referendum of March 2010 on the loan guarantees by the state related to the breakdown of the Icelandic banks)?

Those interested were able to participate, and many did. We got a few thousand submissions that we had to address. Some were very beneficial and we could use them. It was a very open process [...]

E.B.: The economic crisis contributed to the timing, but the idea for a new constitution has been an unfinished project in Iceland for a long time. The crisis was a kind of catalyst. There was a real public demand in the country for change. The politicians were distrusted at the time. Under pressure, the Parliament agreed to call for a Constitutional Council that should draft a new constitution and then hand it to the Parliament. As the Parliament had failed to revise the constitution earlier, this project had to be undertaken outside of it.

How many members did the Constitutional Council have? Who were they and how have they been appointed?

E.B.: The Council had 25 members that were appointed by a nation-wide election. There had been 523 candidates for these seats. The members came from all areas of life: there were professors, writers, a farmer, a medical doctor, a nurse, a schoolteacher, a labour union leader and so on. It was a very diverse group.

So, the Council was very open in its composition. Beyond that it tried to communicate with the larger public. I read about the Council using Facebook and Twitter. Could you briefly explain the idea behind this approach?

E.B.: The idea was that this constitution was for the people and by the people. Therefore the process needed to be open. Everybody had to have the possibility to follow what was going on and contribute his or her ideas and suggestions. Apart from the citizens, many experts worked with the council, for example constitutional experts, most of which were functionaries. Both the experts and the public assisted the Council in its work. This double input was very important.

Did a larger number of citizens engage in this process?

E.B.: Those interested were able to participate, and many did. We got a few thousand submissions that we had to address.



The members of the Icelandic Constitutional Council; the bill for a new constitution is handed over to the speaker of the Parliament (CC by Stjórnlagaráð 2011)



Some were very beneficial and we could use them. It was a very open process, we tried to take everything into account, but it was not systematic. However, the inputs from outside did not delay the whole process of drafting a new constitution.

How did this “open source” approach affect the work of the Council? To what extent does the proposal reflect this participation of the citizens?

E. B.: Let me give you an example: we got an input from the transgender association. They came to us with the concern that their rights were not explicitly enough stated in the chapter on human rights. We were then able to add that to our text. A similar input came from the association of disabled people. There was also a more general impact on the chapter concerning the governmental system.

What were the issues concerning the constitution that have mostly been discussed?

E. B.: The main problem that Iceland faced, was that the division between the branches of government had become blurred. The task was to define the divisions between the executive, the legislative and the judiciary, but also the presidency, more clearly. We did also establish more rigid checks and balances between the branches and define the chain of responsibility of government more precisely.

Would you say that the fact that Iceland is a small nation – as Luxembourg is – has eased the engagement of citizens with the work of the Constitutional Council?

E. B.: Yes, absolutely. In this regard smallness is a benefit. Even though we got a lot of impact and quite a lot of comments, we were not really overflowed by them. The scale made it possible to cope with the input. This may be more difficult in larger societies.

Has this very open and transparent process contributed to a regain of trust between citizens and the political system?

E. B.: It has definitely helped. How far, we do not know yet. It was really a healing process that Iceland has gone through after the profound economic collapse we suffered here.

In July 2011, the Constitutional Council has submitted its proposal to the Parliament. What are the next steps?

E. B.: In October 2012, there will be a national referendum on the proposal.

Will the Parliament vote on the text before the referendum?

E. B.: No, they will vote on it afterwards. As the referendum has only an advisory function, its result will serve as guidance to

the Parliament. Ultimately it is up to the Parliament to ratify the new constitution.

But it would be very difficult for the Parliament to ignore the result of the referendum?

E. B.: Exactly.

Will the new constitution be affected if Iceland becomes a member of the European Union (EU)?

E. B.: No, it will be completely in line with an Icelandic membership in the EU.

In Germany, it is currently discussed, if the recent evolutions in the EU are compatible with the German Basic Law. Is there a debate in Iceland on what will happen, if the project of a real political union will emerge?

E. B.: No, not really. However the proposal for the new constitution has a clause saying that a referendum has to be organised to ratify each treaty that would result in a devolution of state power.

Does that mean that every new EU treaty has to be accepted by a referendum?

E. B.: Yes, I think, it will be interpreted in this way.

Thank you! ♦

(The interview took place on 9 August 2012. LS)