

JUDGMENT OF THE SUPREME COURT

The Supreme Court of Iceland

No 328/2002

Thursday 12 December 2002.

The Prosecution

(Mr. Bogi Nilsson, Director of Public Prosecutions)

versus

Mr. Ingólfur Guðmundsson,

(Barrister Mr. Sigmar K. Albertsson)

Mr. Arnar Ingi Jónsson, and

(Barrister Mr. Brynjar Níelsson)

Mr. Erpur Þórólfur Eyvindsson

(Barrister Mr. Haraldur Blöndal)

A foreign state. Disgrace. Legal authority to penalize. The Vienna Convention. Appeal. A claim for dismissal refuted. Dissenting opinion.

I. G., A. I. J. and E. Þ. E. were accused of having publicly disgraced a foreign nation and a foreign state, pursuant to Article 95 of the Penal Code No 19/1940, by throwing, in the early hours of the morning, a Molotov cocktail against the place of residence of the Embassy of the United States of America and of the Ambassador, leaving obvious traces of fire and smoke on the facade of the Embassy building. It was established that I. G. had prepared the Molotov cocktail and thrown it against the Embassy and that A. I. J. and E. Þ. E. had accompanied him. I. G. was deemed to have been the main perpetrator and A. I. J. and E. Þ. E. his accomplices. It was pointed out that the conduct, i.e. to disgrace publicly a foreign nation or a foreign state within the meaning of Article 95(1) of the Penal Code, must consist of an insult to or disrespect for the nation, in one way or another, the aim of which would be to track attention, and of an act of disparagement and the demonstration of contempt and dishonour. I. G.'s conduct, i.e. to attack the facade of the American Embassy with a Molotov cocktail, the intention of which seemed to have been to leave tracks rather than to cause significant damage, must be deemed to have disgraced the United States of America, the American people or its leaders, since the bomb exploded on the wall within a very short distance from the United States Coat of Arms and the American flag. The aforementioned action was deemed to have been the equivalence of a public disrespect for the foreign nation in question, since it was initiated in public and directed against a public building being a symbol of the United States of America in this country and a part of that state pursuant to established public international law, cf. Article 22 of the Vienna Convention, cf. Act of Parliament No 16/1971 on the adherence of Iceland to the Convention on Diplomatic Relations. I. G., A. I. J. and E. Þ. E. were therefore found guilty of having violated Article 95(1) of the Penal Code; furthermore A. I. J. and E. Þ. E. were subjects to criminal liability pursuant to Article 22(1) of the said Penal Code.

Ruling of the Supreme Court of Iceland.

Supreme Court Justices Mr. Hrafn Bragason, Mr. Garðar Gíslason, Mr. Haraldur Henrysson, Ms. Ingibjörg Benediktsdóttir and Mr. Pétur Kr. Hafstein hand down judgement in the present case.

The Director of Public Prosecutions appealed against the decree of the District Court of Reykjavík to the Supreme Court on 1 July 2002 for conviction, in accordance with the charges made, and for determination of penalty.

The main requirement of all the defendants is that the Supreme Court would dismiss the case. Their alternative plea is firstly to be acquitted and secondly to receive the mildest punishment the law allows.

I.

The defendants' claim for dismissal is based on the assumption that an appeal against the decree of the District Court of Reykjavík were not permitted. Such permission would have been necessary, pursuant to Article 150(2) of the Criminal Proceedings Act No 19/1991, since conviction could only lead to punishment in the form of a fine, that would be much lower than an amount appealed against in civil proceedings, cf. Article 152(2) of the Civil Litigation Act No 91/1991, and the prosecutor's claim before the District Court had not involved anything else.

The Director of Public Prosecutions believes that the defendants were wrongly acquitted in the District Court and appeals against the Courts decree as Article 148 of Act of Parliament No 19/1991 permits, cf. Article 8 of Act of Parliament No 37/1994. The provisions of Article 150(2) of the Act on appeal against convictions do not apply in this case, since the view that punishment or other sanctions were much too mild, cf. Article 148, is not at issue here. The defendants' claim for dismissal will therefore not be taken into consideration.

II.

The defendants are accused of having publicly disgraced a foreign nation and a foreign state, pursuant to Article 95 of the Penal Code No 19/1940, by throwing, in the early hours of the morning of Saturday 21 April 2001, a Molotov cocktail against the place of residence of the Embassy of the United States of America and of the American Ambassador in Laufásvegur in Reykjavík, which caused a fire to flare up on the facade of the building. Still no serious damage was inflicted on the Embassy building and security guards put out the fire within a short period of time. Presented photographs show however obvious traces of fire and smoke on the facade of the Embassy building. The Prosecution holds the opinion that the defendants were agreed on the offence, and that the defendant I. Guðmundsson prepared the Molotov cocktail and threw it against the building. The defendants A. I. Jónsson and E. Þ. Eyvindsson had been guilty of having a part in the defendant I. Guðmundsson's violation of the above mentioned clause of the Penal Code, cf. Article 22 of the said Penal Code. The case was reopened after primary hearing and decree of the District Court and the Counsels were invited to argue the relevance of the offences, allegedly committed by the defendants, to Article 257 of the Penal Code, but the prosecutor also referred to Article 165 of the said Penal Code. The Counsels have, here before the Supreme Court, also expressed their views about the implementation of these legislative provisions and opposed such implementation.

The original police report states that the police was called to the American Embassy at Laufásvegur at 04.23 hours on the morning of Saturday 21 April 2001 "by reason of an attack alert from there". On their arrival at the scene the police officers had noticed heavy smoke rising from the building and an employee of the security service Securitas Ltd. had been engaged in applying a fire extinguisher to the west side of the Embassy. He told the police that a man had been seen on TV surveillance throwing a Molotov cocktail against the Embassy and another employee of Securitas had pursued the man in question. After the security guard had reported two men in the street of Skáholtsstígur police patrol cars were sent off to search for the men. The defendants A. I. Jónsson and E. Þ. Eyvindsson were arrested in the street of

Templarasund few minutes after the offence was committed and taken into police custody. They were interrogated on the following day and released in the evening. On the other hand the defendant I. Guðmundsson was not arrested until in the evening of Saturday 21 April 2001 and was interrogated at noon the following day, Sunday, and released thereafter. The police interrogated the defendants A. I. Jónsson and E. Þ. Eyvindsson again in December 2001.

III.

Reference is made to the decree of the District Court in which the testimony of the defendants and witnesses in the case before the said Court, which largely explains the course of events in this case, is described. On the other hand it is also necessary to argue certain parts in the defendants' testimony, given in the police investigation, which they have confirmed before the District Court on being asked to do so, with the exception of E. Þ. Eyvindsson.

During police interrogation on 22 April 2001 the defendant I. Guðmundsson stated amongst other things that they, the defendants, had late at night discussed politics in general in a restaurant, e.g. the United States warfare policy and intervention in Palestine. They had also discussed demonstrations, which had taken place in front of the American Embassy in Reykjavík, where fire had been set to the Israeli flag. These discussions had led to the idea of expressing some noticeable protest at the premises of the Embassy and then the idea had been hit upon to throw a Molotov cocktail against the Embassy building. He stated that he did not remember who had come up with the idea. The defendant I. Guðmundsson declared before the District Court that this was not wrongly repeated after him. It was further repeated after him, in the police record, that the other two defendants had seemed very pleased when he had told them that he had prepared the bomb, after having walked to the defendant A. I. Jónsson's car, fetched an empty bottle of vodka, and filled it up with soil and petrol together with a strip of newspaper, as further explained in the District Court decree. Shortly after, they had decided to go and throw the bomb against the American Embassy. In Court he declared that this was accurately repeated after him and that the other two defendants had known where they were going.

In the police report dated 21 April 2001 the defendant A. I. Jónsson states that on their way the defendant I. Guðmundsson had told the other two that he were going to throw a Molotov cocktail against the American Embassy, but he had never told them the reason why. In Court the defendant said that this was "somehow" correctly repeated after him, but that he did not recall that they had, on the way, discussed at any length the act of throwing the bomb. The defendant A. I. Jónsson stated, during police interrogation on 17 December 2001, that Guðmundsson had met him and Eyvindsson in the restaurant Prikið and asked them to leave the restaurant with him and once they were outside he had shown them a completed Molotov cocktail, which he had prepared in the vodka bottle. They had then walked together to the American Embassy and in the backyard of a house opposite the Embassy Guðmundsson had lifted the bottle, lit the wick, jumped out of the yard into the street of Laufásvegur, and thrown the flaming bottle against the Embassy. Concurrently he, i.e. Jónsson, and Eyvindsson had run and fled from the scene. He had realized what was about to happen when Guðmundsson had shown them the Molotov cocktail. He had done nothing to stop Guðmundsson from throwing the bottle against the Embassy and said: "It is my belief that this action was not decided on jointly and that Ingólfur Guðmundsson did this and we did nothing to stop him." Before the District Court the defendant A. I. Jónsson declared that this was accurately repeated after him.

In the police report dated 21 April 2001 it is repeated after the defendant E. Þ. Eyvindsson that Guðmundsson had been hiding a completed Molotov cocktail inside his clothes when they were leaving the restaurant Prikið. Then Guðmundsson had told him and Jónsson that he intended to throw this against the American Embassy. They had been under the influence of alcohol and thought this was a joke and had not said anything to Guðmundsson. He claimed to have seen Guðmundsson lit the bomb and jump around the corner of the house and thereafter he had lost sight of him and ran to flee the scene. Before the District Court the defendant E. Þ. Eyvindsson excused himself for not remembering clearly what happened owing to his intoxication.

IV.

It is established, with confession made in Court by Guðmundsson, which is supported by other evidence in this case, in particular the testimony of the defendant A. I. Jónsson, that Guðmundsson prepared a Molotov cocktail and threw it against the Embassy of the United States of America in Laufásvegur in Reykjavík on the morning of 21 April 2001, as detailed in the charges made, the defendant I. Guðmundsson knowing that the Embassy was covered by TV surveillance. It is furthermore established, with the testimony of the defendants in Court, in particular the testimony of I. Guðmundsson and A. I. Jónsson, that the defendants A. I. Jónsson and E. Þ. Eyvindsson accompanied the defendant I. Guðmundsson and that, before taking action, he borrowed from them some clothes the purpose of which was to help him disguise himself and give false impression of himself, from the defendant A. I. Jónsson a blue cap and from the defendant E. Þ. Eyvindsson a camouflage jacket. Information from police investigation also supports this. Due to the fact that the defendants went downhill to the street of Fríkirkjuvegur, it is clear that they did not take the shortest route from restaurant Prikið in the street of Ingólfsstræti, presumably in order to hide, and from Fríkirkjuvegur they went uphill, alongside house No 11, into the backyard of a house in the street of Laufásvegur facing the Embassy. On the other hand it has not been established beyond a doubt that the defendants agreed amongst themselves on the action, but according to the testimony of the defendant A. I. Jónsson he was at least sure of the defendant I. Guðmundsson's intentions when they approached the American Embassy. With regard to the testimony of the defendants I. Guðmundsson and A. I. Jónsson it must also have been clear to the defendant E. Þ. Eyvindsson what was brewing in spite of his excuse of having been intoxicated and having had lapses of memory, and he, like the defendant A. I. Jónsson, did nothing to stop the defendant I. Guðmundsson. The defendant I. Guðmundsson must, in accordance with the statements above, be considered the main perpetrator of the act described in the charges made, and the defendants A. I. Jónsson and E. Þ. Eyvindsson his accomplices. Hereinafter, relevance to an appropriate sanction will be discussed further as well as the appropriate punishment.

V.

Pursuant to Article 95(1) of the Penal Code, cf. Acts of Parliament No 101/1976 and No 82/1998, a natural person, who publicly disgraces a foreign nation or a foreign state, its head of government, head of state, flag, or another established national emblem, the flag of the United Nations or of the Council of Europe, shall be fined or imprisoned for up to two years. In case of serious charges the offence can carry up to six years imprisonment. Pursuant to Article 95(2), cf. Act of Parliament No 47/1941, the same penalty can be imposed for publicly disgracing or abusing, injuring otherwise in words or deeds, or making slanderous insinuations to other officers of a foreign state placed in this country.

With Act of Parliament No 56/2002, which took effect on 14 May 2002, the following new paragraph was added to Article 95 of the Penal Code: "A natural person, who threatens, or uses force in this country against, a diplomat of a foreign state or intrudes into or causes damage on the premises of an Embassy or threatens to do so, shall pay the same penalty." In the general annotations made to the Parliamentary bill the assertion is made that the purpose of this paragraph is to give protection by way of penalty against threats to or use of force against foreign diplomats in this country and against property damage made on the premises of an Embassy or against threats to cause such property damage. It is stated that neither in paragraph 1 nor in paragraph 2 of Article 95 is there absolutely provided for protection by way of penalty in the event of an attack or a threat directed against an officer of a foreign state in this country, or in the event of an act of sabotage committed on the premises of an Embassy. It is further indicated that Article 95(2) exclusively concerns "the act of publicly disgracing or other injuries" inflicted on the officers of a foreign state placed in this country. The bill should clarify that the clause "even though there is no case of disgrace and injury" should comprise conduct, which is considered a minor act of sabotage directed against an Embassy building, the premises of an Embassy, or the home of a foreign diplomat, and the threat to commit such an act. It is a prevalent opinion that this should be provided for more clearly in the Penal Code, notably bearing in mind Iceland's commitments in accordance with public international law. Reference is made to the Vienna Convention on Diplomatic Relations of 18 April 1961, which has been ratified by Iceland, cf. Notification No 14/1971 in Section C of the Official Journal 1971, and to Act of Parliament No 16/1971 on the adherence of Iceland to the International Convention on Diplomatic Relations, Article 1 of which provides for the validity of the Convention in this country. Commitments, in accordance with Article 22 of the Vienna Convention, are reaffirmed and mentioned that Iceland's adherence to the said Convention had not called for specific amendments to Article 95 of the Penal Code before. In Norway, however, one had chosen to phrase the concept of "protection by way of penalty" in Article 95(2) of the Norwegian Penal Code, similarly, qualitatively speaking, to the wording in the Article of the Bill, but that clause had, among other things, been enacted with a view to honour commitments in accordance with the Vienna Convention. In specific annotations made to the Article of the bill the assertion is made that the aim of the clause were to honour the commitments in accordance with Articles 22, 29 and 30 of the Vienna Convention. For that reason it is suggested that all doubts would be dispelled that a threat made, or the use of violence against a diplomat of a foreign state in this country, or an attack or an act of sabotage committed on the premises of an Embassy, or the threat to commit such an act, would be declared a punishable conduct, even though it did not comprise disgrace or injury according to Article 95(2) of the Penal Code.

The defence claims that the legislature had harboured a doubt that the clause of Article 95(1) of the Penal Code would cover incidents equivalent to those referred to in this case, which gave grounds to the enactment, by way of Act of Parliament No 56/2002, of the clause which became Article 95(3) of the Penal Code.

VI.

It is obvious that with the aforementioned amendment to Article 95 of the Penal Code the legislature had in mind, amongst other things, to offer Embassies and their premises increased protection by way of penalty with a view to honour international commitments in accordance with the Vienna Convention more effectively than before. Thus the clause comprises minor acts of sabotage, not necessarily including disgrace or injury, which may rather be looked upon as property damage. Nevertheless it does not rule out that vandalism in various forms will be deemed to

include disgrace brought on an Embassy and the foreign nation of which it is a symbol, even though such vandalism is insignificant.

The conduct of publicly disgracing a foreign nation or a state, within the meaning of Article 95(1) of the Penal Code, must comprise insult or disrespect for the nation in one way or another, the aim of which would be to track attention. It must entail an act of disparagement and the demonstration of contempt and dishonour. The clause will be applied in such circumstances, provided that freedom of expression, as protected by the Constitution, does not oppose such application. No declaration has been made, on behalf of the defendants, that the purpose of the said action had been to exercise such rights. However, the conduct of the defendant I. Guðmundsson, i.e. to attack the facade of the American Embassy with a Molotov cocktail, the aim of which seems to have been to leave tracks rather than to cause significant damage, must be deemed to have disgraced the United States of America, the American people or its leaders. He himself explained to the police that he had aimed at the wall of the Embassy's first floor, i.e. to the right above the entrance. There the flaming bottle exploded and photographs show soot and black stuff on a part of the wall, within a very short distance from the United States Coat of Arms and the American flag. This action must be deemed to be the equivalence of a public disrespect for the foreign nation in question, since it was initiated in public and directed against a public building being a symbol of the United States of America in this country and a part of that state pursuant to established public international law, cf. Article 22 of the Vienna Convention.

With regard to what has been mentioned earlier the defendant I. Guðmundsson's behaviour must be deemed to comprise a violation of Article 95(1) of the Penal Code, which renders it unnecessary to take a stand on other sanctions referred to in this case. The defendants A. I. Jónsson and E. Þ. Eyvindsson assisted the defendant I. Guðmundsson, as described earlier, and did nothing to prevent the action he intended to initiate. For that reason they are also subjects to criminal liability pursuant to Article 22(1) of the Penal Code.

When penalty is decided upon it is appropriate to take into account the defendants' young age and the fact that they have not been convicted of crimes, relevant in this context, before. The defendants I. Guðmundsson and A. I. Jónsson have been convicted of committing a driving offence and the defendant E. Þ. Eyvindsson has a clean police record. The offence they committed is certainly serious, but did not cause extensive damage. With regard to all events and to Article 70, paragraph 1, points 1, 2, 4 and 5 of the Penal Code it is held to be right that the defendants should be ordered to pay a fine to the Treasury, the defendant I. Guðmundsson ISK 250 000, and the defendants A. I. Jónsson and E. Þ. Eyvindsson ISK 150 000 each. The fines shall be paid within 30 days from the pronouncement of this judgement, if not, alternative penalties will be imposed as detailed in the verdict.

In accordance with the verdict the defendants shall pay all costs in connection with the charges brought against them before the District Court and in connection with the procedure in the Supreme Court:

The verdict:

The defendant Mr. Ingólfur Guðmundsson shall be fined ISK 250 000 to be paid to the Treasury within 30 days from the pronouncement of this judgement, failing to do so he shall be imprisoned for 34 days.

The defendant Mr. Arnar Ingi Jónsson shall be fined ISK 150 000 to be paid to the Treasury within 30 days from the pronouncement of this judgement, failing to do so he shall be imprisoned for 26 days.

The defendant Mr. Erpur Þ. Eyvindsson shall be fined ISK 150 000 to be paid to the Treasury within 30 days from the pronouncement of this judgement, failing to do so he shall be imprisoned for 26 days.

The defendant Mr. I. Guðmundsson shall pay his appointed defence in the District Court and the Supreme Court, Barrister Mr. Sigmar K. Albertsson, an amount of ISK 300 000.

The defendant Mr. A. I. Jónsson shall pay his appointed defence in the District Court and the Supreme Court, Barrister Mr. Brynjar Nielsson, an amount of ISK 270 000.

The defendant Mr. E. Þ. Eyvindsson shall pay his appointed defence in the District Court, solicitor Gísli Gíslason, an amount of ISK 150 000 and his appointed defence in the Supreme Court, Barrister Mr. Haraldur Blöndal, an amount of ISK 120 000.

The defendants in this case shall pay *in solidum* all other costs in connection with the charges made.

Dissenting opinion
of Supreme Court Justice Mr. Hrafn Bragason

I agree to the statements in the first four chapters of the opinion of the majority of the judges regarding the facts of this case and that the defendants are responsible for the defendant I. Guðmundsson's act of throwing a Molotov cocktail against the American Embassy in the early hours of the morning of Saturday 21 April 2001, inflicting some fire damage on the facade of the building, as shown in the photographs presented. I also agree to the majority's explanation of the provisions of Article 95 of the Penal Code No 19/1940 and of the amendments to that Article, laid down in Act of Parliament No 56/2002, that is to say after the events of this case took place, and one can refer to Chapter V of the said opinion in this respect. On the other hand I disagree with the majority on the relevance of a sanction to the action in question and I am of the opinion that Chapter VI of the ruling should read as follows:

VI.

The defendants are accused of having publicly disgraced a foreign nation and a foreign state according to Article 95 of the Penal Code. In the annotations made to the provisions of the original version of the said Article the assertion was made that the aim of its enactment was to protect the interests of the State of Iceland, and not especially to protect foreign interests in this country. This view is *inter alia* based on the fact that the State of Iceland is under an obligation, according to public international law, to offer delegates of foreign states, dwelling in this country, special protection, including protection by way of penalty, cf. Act of Parliament No 16/1971 on the adherence of Iceland to the International Convention on Diplomatic Relations, or the so called Vienna Convention, Article 1 of which provides for the validity of the Convention in this country. Subsequently the American Embassy referred the police to the Icelandic Ministry for Foreign Affairs after the youngsters had committed the act, by reason of which the Ministry filed a legal accusation with the police on 9 October 2001, accurately so in fulfilment of the state's obligations under the aforementioned Convention. This was done within the period of six months referred to in Article 29 of the Penal Code, as discussed here below. According to the Vienna Convention states are required to declare attacks and acts of sabotage, committed on the premises of an Embassy, or a threat thereof, as a punishable conduct.

Established facts of this case reveal that the youngsters' act was notified to the police as an attack against an Embassy, but was later investigated as an arson attack. The Director of Public Prosecutions would have had the choice to prosecute under Article

164 of the Penal Code, or, since damage done to the building turned out to be light, under Article 257 of the said Code, taking into account the fact that a legal accusation was filed as a result of the act within a period of six months after it was committed, as mentioned earlier. The case was reopened in the District Court and the Counsels were invited to argue the relevance of the offences, allegedly committed by the defendants, to Article 257 of the Penal Code, but the prosecutor then also referred to Article 165 of the said Penal Code. For that reason it was considered to be appropriate that the Counsels would also argue the case, before the Supreme Court, with regard to the aforementioned provisions. According to the introductory clause of Article 117 of the Criminal Proceedings Act No 19/1991 a defendant shall not be convicted of a conduct other than that referred to in the charges made. It is appropriate, however, to pass sentence raised on other sanctions than those referred to in the charges made, provided the defence is not faulty and the description of the act committed is in compliance with the respective sanction. In this case the Director of Public Prosecutions decided to prosecute the offenders for having publicly disgraced the United States of America by way of their action and to apply the clause of Article 95(1) of the Penal Code to their action, as mentioned earlier. The description, in the charges made, of the act committed does not give rise to penalty based on the clause of Article 257 of the Penal Code.

It is mentioned in Chapter V above that the defence had claimed that the legislature had harboured a doubt that the clause of Article 95(1) of the Penal Code would cover the act committed by the young men. Reference was made to the fact that with the Act of Parliament No 56/2002, which was adopted after the said act was committed, a new paragraph was added to Article 95. This clause is clarified in Chapter V and in the general annotations made thereto. In there it is indicated that neither in paragraph 1 nor in paragraph 2 of Article 95 is there absolutely provided for protection by way of penalty in the event of an act of sabotage committed on the premises of an Embassy. The bill should, amongst other things, clarify that the clause "even though there is no case of disgrace and injury" should comprise conduct, which is considered a minor act of sabotage against an Embassy building. In specific annotations made to the Article of the bill the assertion is made that the aim of the clause were to honour the commitments in accordance with Articles 22, 29 and 30 of the Vienna Convention. It is stated in the annotations that in Norway it had been believed necessary to adopt a comparable clause for the same purpose. That was done on 15 December 1950.

The provision of Article 95(1) of the Penal Code has not been applied in Supreme Court rulings since the first half of the last century. An identical clause has neither been applied in Denmark since that time. In Norway an act, comparable to that which is being considered here, has been made relevant to Article 95(2) of the Norwegian Penal Code after 1950, which is comparable to the clause, which was enacted in Iceland in 2002. Since the end of World War II public opinion regarding matters dealt with in Article 95(1) of the Penal Code has changed, which is best seen in the provisions of the Universal Declaration of Human Rights and the United Nations Agreements on Human Rights, and which coalesces in Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe, which was enacted in Iceland by adoption of Act of Parliament No 62/1994 relating thereto, and in Article 73 of the Constitution, as amended by Article 11 of the Constitutional Law No 97/1995. The aforesaid provisions assert enhanced rights to the general public to express itself, e.g. to demonstrate in front of foreign Embassies. The objective of the provision of Article 95(1) of the Penal Code is to support that foreign nations and states are shown due respect in words and deeds in public. This provision cannot be clarified without reference to the human rights provisions on freedom of speech mentioned above and the ideas reflected therein. When clarifying these articles one cannot ignore the clarification of the European Court of Human

Rights of the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms. It is imperative to take into account the aforementioned conventions and the legislation resulting there from when clarifications of the provision of Article 95(1) of the Penal Code are provided, just as when other honour protection provisions of Icelandic legislation are clarified. The said provision will not be deemed to apply to an act committed, unless such an act is undoubtedly specified in that provision, cf. Article 73(3) of the Constitution. The Icelandic legislature responded to this, e.g. by adopting Act of Parliament No 56/2002 with regard to acts of sabotage committed on the premises of an Embassy.

The defendant I. Guðmundsson claimed before the District Court that it had not been his intention to disgrace the United States of America. In the Supreme Court proceedings his defence maintained that he had been opposed to the United States foreign policy and that the idea to attack the Embassy had merged from discussions of the policy pursued by the United States in the Middle East and that the aim of the attack had been to symbolize his disapproval. This is in harmony with I. Guðmundsson's testimony and the defendant A. I. Jónsson's testimony, that were confirmed for the most part in the District Court. It is clear that the reason for the defendants attack on United States Embassy is at least the opinions of the defendant I. Guðmundsson. On the other hand it has been established that all the young men were roaring drunk when the act was committed, which makes it difficult to work out their exact intentions. The only comparison to be made is that their intention had been to inflict damage on the Embassy and the act committed should not be given any other or hidden meaning. Furthermore the act was committed early in the morning, when few people were on the move, it only being observed by security guards through TV surveillance, and the defendants had sneaked through backyards towards the Embassy. By reason of what has been mentioned here above Article 95(1) of the Penal Code cannot apply to the act committed by the defendants. Whereas the Prosecution has tied the description of the charges made to a breach pursuant to the aforesaid Article the defendants must be acquitted of its demands and the State of Iceland sentenced to pay all costs related to the appeal made.