

EFTA Surveillance Authority
c/o Arne Røksund, President of ESA's College
Avenue des Arts 19H
1000 Brussels
Belgium

Reykjavik, 2 June 2025.

Issues regarding the fairness, objectivity and independence of the EFTA Surveillance Authority – ESA day in Iceland, held in Reykjavik, on 8 May 2025.

The Federation of Agricultural Enterprises (hereinafter “Federation”) in Iceland would like to raise serious concerns regarding the organization and execution of the ESA day held in Iceland on 8 May 2025 in cooperation with Alþingi, the Icelandic Lawyers’ Association and the Icelandic Bar Association.

As is well known, the ESA day was organized by the EFTA Surveillance Authority (hereinafter “ESA” or “Authority”). Representatives of the Federation attended the ESA day as they have done for several years as previous events have been informative and contributed positively to public awareness of ESA’s important role within the scope of the EEA Agreement. These events have also helped to facilitate public discussion of Iceland’s rights and obligations as an EFTA state and a contracting party to the EEA Agreement.

However, the Federation is deeply concerned by the discussions that took place on 8 May 2025, which, in its opinion, were not consistent with ESA’s own Mission and Values (Integrity, Openness, and Competence), and potentially also inconsistent with ESA’s Rules of Procedure.

1. The theme of the ESA day and presentation of panellists

The theme of the ESA day conference was: “The EEA Agreement for the benefit of business and consumers”, supported by an agenda that included a variety of presentations on the EEA Agreement.

One portion of the programme included a panel focusing on food safety, competition issues and financial supervision. Participants included Árni Páll Árnason, Vice-President of ESA, Benedikt Gíslason, CEO of Arion Bank, Gréta María Grétarsdóttir, CEO of Heimkaup and Prís, Guðmundur Kristjánsson, CEO of Brim, Ólafur Stephensen, CEO of the Icelandic Federation of Trade and Breki Karlsson, CEO of the Consumers’ Association of Iceland.

Following various presentations, the group of panellists were invited to comment on various topics. During these discussions it became apparent that Mr. Ólafur Stephensen, CEO of the Icelandic Federation of Trade, used the opportunity to promote a position in a case based on a complaint – submitted by the Icelandic Federation of Trade – that is currently under examination by ESA.¹ The case concerns the customs classification of a product known as IQF Mozzarella Pizza Mix.

¹ According to a new release published on 9 April 2025 on website of the Icelandic Federation of Trade, it submitted a complaint to ESA in 2024: “*ESA tók málið upp við íslensk stjórnvöld í framhaldi af kvörtun frá Félagi atvinnurekenda á síðasta ári*” (English translation: “ESA took the matter up with Icelandic authorities

In his remarks, Mr. Stephensen stated *inter alia* that ESA had already *taken a decision* concerning Iceland's obligations concerning the matter. This statement was in direct contradiction to earlier general comments made by ESA staff, who had clearly explained that a decision to investigate a case does not constitute a final decision. The statement was also inconsistent with the actual status of the case, in which ESA has merely issued a letter of formal notice to the Icelandic government. Nevertheless, no ESA representative – including Mr. Árni Páll Árnason, the responsible College Member – addressed or corrected this misstatement.

Furthermore, Mr. Stephensen claimed that the *government had joined special interest groups* in this particular case concerning the tariff classification of IQF Mozzarella Pizza Mix. Here, it is worth noting that a member of the Icelandic Federation of Trade has repeatedly instigated legal proceedings against the Icelandic Minister of Finance, on behalf of the Icelandic government, where similar accusations have been made. That member has lost all cases, both before the Icelandic District Courts (Icelandic: *héraðsdómstólar*), the Appellate Court (Icelandic: *Landsréttur*) and a specific Retrial Court (Icelandic: *Endurupptökudómur*). Furthermore, the Icelandic Supreme Court has decided that an application to appeal the case to the Court did not fulfil the necessary requirements for an appeal. It follows that earlier accusations have been proven to be unfounded at all levels of the Icelandic court system.

The Federation considers it inappropriate and inconsistent with ESA's Mission and Values, as defined by ESA itself (Integrity, Openness and Competence), to allow the Icelandic Federation of Trade, an entity that has lodged a complaint that is under consideration, to issue inaccurate and highly controversial statements during a conference held by the Authority discussing the EEA Agreement, and without ESA's representatives, including the responsible College Member, correcting the statements made and/or pointing out that the ESA day is not held to discuss individual and ongoing cases under consideration.

2. The EEA Agreement and Agriculture

The Federation also wishes to highlight a fundamental problem in public discourse concerning the relationship between the EEA Agreement and agricultural production – a problem ESA has now contributed to by not correcting misrepresentations and allowing one-sided views on sensitive topics taking into account that agriculture does not, in principle, fall under the scope of the EEA Agreement. Some of the panellists that participated in the ESA day are publicly known for their critical position towards current rules and regulations governing the production of agricultural goods in Iceland, including with regards to the EEA agreement.

That fundamental problem in public discourse led to the publication of a legal opinion by Dr. Carl Baudenbacher, former president of the EFTA Court, whereby Dr. Baudenbacher further clarified the relationship between the EEA Agreement and agriculture production. However, the Federation is of the opinion that the organization and selection of panellists by ESA can be viewed as a considerable setback with regards to public discourse in Iceland regarding the EEA Agreement and agriculture as the views set forth were highly biased without any panellist being present providing context and any counter-arguments.

following a complaint from the Icelandic Federation of Trade last year"). See further:
<<https://atvinnurekendur.is/efirlitsstofnun-efra-rong-tollflokkun-a-pitsuosti-brot-a-ees-samningnum/>>.

3. Integrity, Openness and Competence

ESA defines its Mission and Values as Integrity, Openness and Competence. The Authority's website also affirms that it operates in „a fair, objective and independent manner“. Furthermore, reference is made to the Authorities Rules on Procedure in this respect.

In the view of the Federation, the ESA Day 2025 event in Iceland failed to meet these standards. Instead, the Authority enabled proponents of one view to participate in public debate where inaccurate and highly controversial statements were made. Rather than facilitating a balanced and open dialogue, the Authority enabled proponents of a single viewpoint to make inaccurate and highly controversial claims – without offering space for alternative perspectives or ensuring that incorrect statements were addressed. That would have been necessary given the lack of response from the responsible College Member and ESA staff and *inter alia* their omission of correcting misrepresentations regarding the status of the particular case in question and the relationship between the EEA Agreement and agriculture.

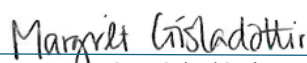
Therefore, the discussion that took place on 8 May 2025 was neither fair, objective nor independent and, in our opinion, did not meet the standards ESA sets for itself. Furthermore, and in this context, the Federation has concerns that the impartiality of the responsible College Member cannot be considered “beyond doubt” in the context of *inter alia* Article 6 of the Authorities Rules on Procedure² and/or Article 9(3) of the Surveillance and Court Agreement.³

4. Conclusion

The Federation respectfully requests that the Authority respond to the concerns set out above and explain how it intends to address them with respect to the case at hand and in the future.

Open debate is necessary in a democratic society, but it must be based on facts, respect and equality of views. ESA plays a key role in maintaining trust and cooperation upon which the EEA Agreement is built – and we believe it is important that this responsibility is clearly reflected in all public events in which the Authority is involved and that ESA's impartiality is beyond doubt in individual cases. In the Federation's view that can be contested in this particular matter.

Respectfully,


Margrét Gísladóttir
Managing Director

² Article 6 of the Rules of Procedure refers to that “...if a College Member considers that, in order to ensure that the independence of the Authority remains beyond doubt, it would be opportune for him not to take part in the deliberations or decisions in all or part of a particular matter, he may recuse him/herself.”

³ Article 9(3) of the SCA Agreement *inter alia* states: “In case one of the members, in the opinion of the two other members, is disqualified from acting in a particular case, the two other members shall agree on a person to replace him chosen from a list established by common accord by the Governments of the EFTA States.”