

Case No: 75692
Document No: 1337225
Decision No: 050/23/COL

EFTA SURVEILLANCE AUTHORITY DECISION

of 29 March 2023

closing a Conformity Assessment of the Waste Framework Directive 2008/98/EC in
Iceland

THE EFTA SURVEILLANCE AUTHORITY

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, in particular Article 31 thereof,

Whereas:

1 Introduction

On 3 February 2015 (Document No 742914), the Internal Market Affairs Directorate (the “Directorate”) of the EFTA Surveillance Authority (“the Authority”) initiated a conformity assessment of the implementation into the Icelandic legal order of *Directive 2008/98/EC on waste and repealing certain Directives* (“the Waste Framework Directive” or “the Directive”).¹

The Authority identified a number of issues related to the implementation of Articles 2, 3, 7, 15, 17, 19, 21, 23, 26, 28, 29, 33 and 35 of the Waste Framework Directive in Iceland.

These issues concerned, inter alia; (i) the application of the Waste Framework Directive to the management of waste at sea; (ii) the implementation measures for the definitions of “dealer” and “broker”; (iii) the implementation measures for the definition of hazardous waste in Iceland as well as the concept of “holder of hazardous waste”; (iv) division of responsibility for the treatment of waste; (v) information contained in the identification documents of hazardous waste; (vi) implementation of provisions on the collection and treatment of waste oils; (vii) the permits for establishments or undertakings carrying out waste treatment; (viii) registration of establishments or undertakings collecting waste on a professional basis; (ix) the adoption of the waste prevention programme; and (x) the adoption and revision of the central and local waste management plans.

The Authority is of the view that the Icelandic Government has addressed and resolved the raised issues in the course of the exchanges and interactions with the Icelandic Government, as further set out in the correspondence below, except for the adoption of a waste management plan covering the entire geographical territory of Iceland and a waste

¹ OJ L 312, 22.11.2008, p. 3. As incorporated into the EEA Agreement at point 32ff of Annex XX by Joint Committee Decision No 85/2011 of 1 July 2011, which entered into force on 1 November 2012.

prevention programme setting out specific quantitative and qualitative benchmarks for waste prevention measures, as required by Articles 28 and 29 of the Directive.

While the Authority is of the view that the issues relating to Articles 28 and 29 of the Directive have not yet been fully resolved, it recognizes the progress made by the Icelandic Government to ensure compliance with the requirements of these provisions, as will be further elaborated on in the below assessment.

In this regard, the Authority also notes that *Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste (“the Amending Directive”)*² has adapted and introduced new requirements, inter alia, in Articles 28 and 29 of the Waste Framework Directive, subsequently requiring the EEA EFTA States to modify their waste management plans and waste prevention programmes accordingly.

In the light of the issues that have been resolved by Iceland, and for the best administration of cases following the incorporation of the Amending Directive into the EEA Agreement, the Authority is of the view that this case should be closed and, in parallel, a new case (case 89615) be opened for the Authority to continue to assess the compliance of Iceland’s waste management plan and waste prevention programme with the requirements of Articles 28 and 29 of the Waste Framework Directive, as amended.

2 Correspondence and actions

In its letter of 3 February 2015 (Document No 742914), the Directorate invited the Icelandic Government to provide its observations, comments, clarifications, and any other relevant information to the issues raised.

By letter of 14 April 2015 (Document No 754042), the Icelandic Government replied to the Directorate’s letter of 3 February 2015. In this letter, the Icelandic Government: (i) clarified the application of the Waste Framework Directive to the management of waste at sea; (ii) explained that the terms “dealers” and “brokers” had not been transposed into the Icelandic legislation since there were no dealers and brokers in Iceland; (iii) confirmed the list of hazardous waste, and that Icelandic legislation forbids the dilution of hazardous waste; (iv) indicated that the division of responsibility for the treatment of waste would be further clarified; (v) clarified that the information in identification documents of hazardous waste was similar to Annex IB to Regulation (EC) No 1013/2006;³ (vi) clarified how waste oils are collected and treated; (vii) clarified how the Waste Framework Directive provisions related to permits for establishments or undertakings carrying out waste treatment (Article 23) had been transposed; (viii) indicated that there was no registry of establishments or undertakings collecting waste on a professional basis, since these were already subject to permits under Icelandic legislation; (ix) provided an estimated date for the adoption of the waste prevention programme; (x) provided a link to a list of the waste management plans that had been adopted by the municipalities; and (xi) confirmed the scope of the notion of “holder of hazardous waste” in the Icelandic legislation.

The case was discussed at the package meeting of 27 May 2015. At this meeting, as summarised in the follow-up letter (Document No 759466), the representatives of the Icelandic Government committed to, amongst others, provide more information on the

² OJ L 150, 14.6.2018, p. 109. As incorporated into the EEA Agreement at point 32ff of Annex XX by Joint Committee Decision No 318/2021 of 29 October 2021, which entered into force on 1 August 2022.

³ Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste, OJ L 190, 12.07.2006, p. 1. Act referred to at point 32c of Annex XX to the EEA Agreement.

responsibility for waste management, and to submit a waste management plan and a waste prevention programme by July 2015.

By letter of 6 July 2015 (Document No 763984), the Icelandic Government confirmed, *inter alia*, the upcoming changes to the Icelandic legislation to implement the terms “brokers” and “dealers” and announced that the waste prevention programme would not be ready until fall of 2015 and sent the available municipalities’ waste management plans (7 out of 9). The Icelandic Government explained that those waste management plans covered 97% of the inhabitants in Iceland, with only the two areas of the Westman Islands (Vestmannaeyjar) and Westfjords (Vestfirðir) lacking a waste management plan.

By letter of 5 November 2015 (Document No 776227), the Directorate asked the Icelandic Government to clarify several questions on the waste management plans, noting that most of the waste management plans predated the entry into force of the Directive, and that in cases where there were several regional waste management plans or several planning levels coordination may be necessary in order to achieve the objectives of Article 28 of the Directive. The Directorate furthermore requested an estimation of the timing for the submission of the waste prevention programme, noting that the deadline to establish waste prevention programmes was in December 2013, according to Article 29 of the Directive.

By letter of 22 January 2016 (Document No 789901), the Icelandic Government provided the required clarification on the waste management plans, *inter alia*, that the national policy on waste management of 2013-2024 (hereinafter “the central waste management plan”) served a coordinate role for the regional waste management plans (hereinafter the “local waste management plans”) adopted by the municipalities, and that in combination they would fulfil the Directive’s obligations. They also indicated that the waste prevention programme had been adopted and published on 1 January 2016.

By e-mail of 4 February 2016 (Document No 798554), the Directorate asked the Icelandic Government to consider further changes to the Icelandic legislation in order to implement the terms of “dealers” and “brokers” in line with the Waste Framework Directive.

By letter of 1 July 2016 (Document No 811991), the Icelandic Government indicated that a revision of the central waste management plan and waste prevention programme would be initiated in 2016, to ensure compliance with Article 28 and 29 of the Directive and welcomed the assistance and guidance from the Authority.

The case has been repeatedly discussed at the package meetings in Iceland from 2016 to 2018. As summarised in the follow-up letters (Documents No 808361, No 861615 and No 918168), discussions focused on the timing for the revision of the central waste management plan and the waste prevention programme.

At the package meeting of 6 June 2018, the representatives of the Icelandic Government indicated that the revision of the central waste management plan and waste prevention programme would be finalised by early 2019 and late summer 2019, respectively.

The Directorate and the Icelandic Government exchanged numerous e-mails in the course of 2018 and early 2019 on the timing for the revision of the waste management plans and waste prevention programme (Documents No 927929, No 1041310, No 1063093 and No 1064446).

On 26 April 2019, the Directorate issued a pre-Article 31 letter (Document No 1050877). In its letter, the Directorate took the preliminary view that Iceland had not fulfilled its obligations pursuant to Articles 28 and 29 of the Waste Framework Directive by failing to establish coherent and coordinated waste management plans covering the entire

geographical territory of Iceland and a waste prevention programme and by not including in its waste prevention programme qualitative and quantitative benchmarks for waste prevention measures.

The case was discussed at the package meeting of 5 June 2019, as summarised in the follow-up letter (Document No 1076000). The representatives of the Icelandic Government provided an update on its ongoing revision of the waste management plans. They indicated that; (i) the central waste management plan was expected to be sent for a public consultation in August 2019 and to be adopted in November 2019; (ii) this plan would have a coordinative role for the entire geographical territory of Iceland as municipalities would subsequently have to revise their local waste management plans by the end of 2020 in line with the central waste management plan and (iii) the revision of the waste prevention programme had been finalised in January 2019 with an annex setting out some of the required quantitative and qualitative benchmarks.

By letter of 21 June 2019 (Documents No 1076688 and No 1076690), the Icelandic Government responded to the Directorate's Pre-Article 31 letter, confirming the information given at the package meeting and sharing the revised waste prevention programme.

On 6 May 2020, the Authority issued a letter of formal notice (Document No 1102642), maintaining the view that Iceland had not fulfilled its obligations pursuant to Articles 28 and 29 of the Waste Framework Directive.

By letter of 7 August 2020 (Doc No 1155159), the Icelandic Government replied to the Authority's letter of formal notice. It informed the Authority that the central waste management plan was expected to be adopted by the end of 2020 and shared with the Authority a draft waste management plan. The Government also informed that the missing quantitative and qualitative benchmarks were planned to be added to the waste prevention programme by the end of 2020.

The case was discussed at the package meeting of 1 June 2021, as summarised in the follow-up letter (Doc No 1204495). The representatives of the Icelandic Government explained that the central waste management plan was about to be adopted, following which the local waste management plans would be revised. As regards the waste prevention programme, they explained that the Annex had been updated in March 2021 with new information in relation to the waste category "food", including quantitative and qualitative benchmarks, and that other waste categories, such as "electronics", "green buildings" and "less paper", would be addressed in the frame of the subsequent revision of the waste prevention programme planned for 2022.

The Directorate and the Icelandic Government exchanged e-mails in the course of April 2022 on the timing for the adoption of the local waste management plans and the revision of the waste prevention programme (Document No 1283030). This led to discussions at an *ad hoc* meeting on 20 April 2022, which will be further detailed below.

Following that meeting, the Icelandic Government shared by email of 20 April 2022 (Document No 1283164) links to; (i) the central waste management plan, adopted in June 2021, including the waste prevention programme from 2016 with the updated Annex from March 2021;⁴ (ii) Act no 103/2021 adopted on 13 June 2021 to empower the Icelandic Government to supervise and enforce the adoption of the local waste management plans;⁵ (iii) information on a project run by the Icelandic Association of Local Authorities in cooperation with the Ministry of the Environment, Energy and Climate to support the

⁴https://www.stjornarradid.is/library/02-Rit--skyrslur-og-skrar/UAR_stefnal_att_ad_hringrasarhagkerfi.pdf

⁵<https://www.althingi.is/altext/151/s/1810.html>

municipalities in their development of the local waste management plans,⁶ and (iv) an action plan against food waste, published by the Ministry of the Environment, Energy and Climate in September 2021.⁷

The case was last discussed at the Icelandic package meeting of 8 June 2022, as summarised in the follow-up letter (Doc No 1294470) and further detailed below.

3 Assessment

3.1 Waste management plans

Article 28 of the Waste Framework Directive requires Member States to ensure that their competent authorities establish one or more waste management plans, covering the entire geographical territory of the state. It sets requirements for the content of the waste management plan.

Article 30(1) of the Waste Framework Directive provides that EEA States shall ensure that the waste management plans and waste prevention programmes are evaluated at least every six years and revised as appropriate and where relevant.

Article 33(1) of the Waste Framework Directive obliges EEA EFTA States to inform the Authority of the waste management plans and waste prevention programmes once adopted and of any substantial revisions to the plans and the programmes.

With reference to the above correspondence, the Icelandic Government has explained that the central waste management plan has a coordinative role for the entire geographical territory of Iceland, and that the municipalities are required to draw up local waste management plans in line with the central waste management plan. The local waste management plans are expected to cover the more detailed content requirements set out in Article 28(3) to (5) of the Directive. Together, the central and local waste management plans will cover the entire geographical area of Iceland.

As explained by the representatives of the Icelandic Government at the *ad hoc* meeting of 20 April 2022 as well as the package meeting of 8 June 2022, the central waste management plan was adopted and published by the Icelandic Government in June 2021, and the municipalities' development of the local waste management plans is well under way, aiming for completion by the end of 2022.

A joint waste management plan has been developed by 31 municipalities in the South-West region of Iceland, covering 80% of the Icelandic population, and has been submitted to the local authorities for approval. The other municipalities (in total 69) are working on developing their waste management plans, either solely or jointly. At the time of this decision, the Directorate has not received an update on the development of the local waste management plans.⁸

Furthermore, the Icelandic Government has explained that it has initiated several measures to ensure the adoption of the local waste management plans:

⁶ <https://www.samband.is/verkefni/umhverfis-og-urgangsmal/innleiding-bringrasarhagkerfis/svaedisaaetlun-um-medhondlun-urgangs/>

⁷ <https://www.stjornarradi.is/library/02-Rit--skyrslur-og-skrar/Minni%20matars%C3%B3un%20-%20A%C3%B0ger%C3%B0a%C3%A1%C3%A6tlun%20gegn%20matars%C3%B3un.pdf>

⁸ On 8 November 2022, the Directorate sent an e-mail to the Icelandic Government (Doc No 1326075) requesting an update on any progress being made as well as a timeline. At the time of this decision, no update has been given.

- Act no 103/2021⁹ was adopted on 13 June 2021 to ensure supervision and enforcement of the municipalities' waste management plans. As per the amendments introduced by this act, the Icelandic Environment Agency is required as of 1 January 2023, when the act enters into force, to notify the Ministry of the Environment, Energy and Climate of any failures by the local authorities to adopt their waste management plan or if the adopted plans are not in compliance with the relevant requirements, following which the Icelandic Government is empowered to take certain actions;
- The Icelandic Association of Local Authorities is running, with support from the Ministry of the Environment, Energy and Climate, a project on waste management in which a series of workshops are being held to give guidance to the municipalities when developing the local waste management plans;
- In June 2022, as also required by the aforementioned act, the Icelandic Environment Agency published a Guidance Document on waste management to assist the local authorities when preparing their waste management plans.¹⁰

Based on the above, the Authority recognizes the progress made by the Icelandic Government to establish waste management plans, covering the entire geographical territory of Iceland as required by Article 28 of the Waste Framework Directive and notes that the adoption of some local waste management plans is still pending.

Moreover, as noted above, the Amending Directive has adapted and introduced new requirements in Article 28 of the Waste Framework Directive:

- Points (b) and (c) of Article 28(3) of the Directive have been replaced to include in the waste management plans, respectively, any special arrangements for waste containing significant amounts of critical raw materials, and to ensure that an assessment of the investment and other financial means, including for local authorities, required to meet the needs for closure of existing waste installations and for additional waste installation infrastructure is carried out;
- Points (ca) and (cb) have been inserted, requiring, respectively, information on the measures to attain the objective laid down in Article 5(3a) of Directive 1999/31/EC on the landfill of waste ("the Landfill of Waste Directive"),¹¹ and an assessment of existing waste collection schemes, including the material and territorial coverage of separate collection and measures to improve its operation, of any derogations granted in accordance with Article 10(3) of the Directive, and of the need for new collection schemes;
- Points (f) and (g) have been added to include, respectively, measures to combat and prevent all forms of littering and to clean up all types of litter, and appropriate qualitative or quantitative indicators and targets, including on the quantity of generated waste and its treatment and on municipal waste that is disposed of or subject to energy recovery; and
- Article 28(5) of the Directive has been replaced to ensure that the waste management plans conform to the waste planning requirements laid down in

⁹ Act no 103/2021 amending the Act on Hygiene and Pollution Prevention, the Act on Waste Management and the Act on Processing Fees (Lög nr. 103/2021 um breytingu á lögum um hollustuhætti og mengunarvarnir, lögum um meðhöndlun úrgangs og lögum um úrvinnslugjald).

¹⁰ Shared with the Directorate by email of 18 August 2022, Document08753.

¹¹ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.7.1999, p. 1). As incorporated into the EEA Agreement at point 32d of Annex XX by Joint Committee Decision No 56/2001 of 18 May 2001, which entered into force on 1 April 2004. This Act has been changed, latest by Directive (EU) 2018/850 of the European Parliament and of the Council of 30 May 2018 amending Directive 1999/31/EC on the landfill of waste (OJ L 150, 14.6.2018, p. 100–108), as incorporated into the EEA Agreement by Joint Committee Decision No 84/2022 of 18 March 2022 which entered into force on 19 March 2022.

Article 14 of Directive 94/62/EC on packaging and packaging waste,¹² to the targets laid down in Article 11(2) and (3) of the Waste Framework Directive and to the requirements laid down in Article 13 of the Landfill of Waste Directive and for the purposes of litter prevention, to the requirements laid down in Article 13 of Directive 2008/56/EC,¹³ and Article 11 of Directive 2000/60/EC.¹⁴

The Icelandic Government has explained that the Amending Directive is being taken into account by the municipalities in their development of the local waste management plans. The Guidance Document prepared by the Environment Agency refers to the Amending Directive. The Ministry of the Environment, Energy and Climate is currently working on the implementation of the Amending Directive into the Icelandic legal order. It has explained that the main legislative amendments were adopted by the aforementioned Act no 103/2021, and that more detailed regulations are underway to ensure full implementation of the Amending Directive.

While the issues raised by the Authority in its letter of formal notice of 6 May 2020 have not yet been fully addressed by the Icelandic Government, pending the adoption of remaining local waste management plans, the Authority is of the view that Iceland's compliance with Article 28 of the Waste Framework Directive should be assessed against the new requirements as adapted by the Amending Directive. Thus, a new case should be opened for the Authority to continue its assessment of Iceland's waste management plans.

3.2 Waste prevention programme

Article 29 of the Waste Framework Directive requires Member States to establish a waste prevention programme. This article also sets requirements for the content of the waste prevention programme.

Article 30(1) of the Waste Framework Directive provides that EEA States shall ensure that the waste management plans and waste prevention programmes are evaluated at least every six years and revised as appropriate and where relevant.

Article 33(1) of the Waste Framework Directive obliges EEA EFTA States to inform the Authority of the waste management plans and waste prevention programmes once adopted and of any substantial revisions to the plans and the programmes.

To address the concerns raised by the Authority in its letter of formal notice of 6 May 2020, the Icelandic Government updated the Annex of its waste prevention programme in March 2021, with new information in relation to the waste category "food", including quantitative and qualitative benchmarks.

¹² European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10). As incorporated into the EEA Agreement at point 7 in Chapter XVII of Annex XX by Joint Committee Decision No 67/95 of 22 November 1995, which entered into force on 1 February 1997. This Act has been changed, latest by Directive (EU) 2018/852 of the European Parliament and of the Council of 30 May 2018 amending Directive 94/62/EC on packaging and packaging waste (OJ L 150, 14.6.2018, p. 141), as incorporated into the EEA Agreement by Joint Committee Decision No 296/2021 of 29 October 2021 which entered into force on 30 October 2021.

¹³ Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (OJ L 164, 25.06.2008, p. 19). Act not considered by the EEA EFTA States to be relevant for incorporation into the EEA Agreement.

¹⁴ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1). As incorporated into the EEA Agreement at point 13ca of Annex XX by Joint Committee Decision No 125/2007 of 28 September 2007, which entered into force on 1 May 2009.

With reference to the above correspondence, the Icelandic Government is currently working on a revision of the waste prevention programme covering the years 2016 to 2027, as part of the periodical evaluation required by Article 31 of the Waste Framework Directive. The aim is to finalise the revision by the end of 2022. At the time of this decision, the Directorate has not received an update on the development.

Moreover, as noted above, the Amending Directive has adapted and introduced new requirements in Article 29 of the Waste Framework Directive:

- Paragraphs 3 and 4 of that provision have been deleted, which required the determination of specific qualitative or quantitative benchmarks for waste prevention measures, and indicators for waste prevention measures, respectively;
- Paragraph 1 has been replaced to require that the waste prevention programme sets out at least the waste prevention measures laid down in Article 9(1) in accordance with Articles 1 and 4 of the Directive;
- Paragraph 2, first subparagraph, of Article 29, is replaced to require a description of the contribution of instruments and measures listed in Annex IVa, an evaluation of the usefulness of the examples of measures indicated in Annex IV or other appropriate measures, and a description of existing waste prevention measures and their contribution to waste prevention; and
- A new paragraph 2a has been inserted, requiring the adoption of specific food waste prevention programmes within their waste prevention programmes.

The Icelandic Government has explained that the Amending Directive is also being taken into account in the revision of the waste prevention programme.

Based on the above, the Authority recognizes the progress made by the Icelandic Government to ensure compliance of the waste prevention programme with Article 29 of the Waste Framework Directive and welcomes its efforts to take into account the Amending Directive in the ongoing revision process.

Following the incorporation of the Amending Directive into the EEA Agreement, whereby, *inter alia*, the requirement to set qualitative or quantitative benchmarks for waste prevention measures has been deleted, Iceland's compliance with Article 29 of the Waste Framework Directive should be assessed against the new requirements as amended.

As the issues raised by the Authority in its letter of formal notice of 6 May 2020 has not yet been fully addressed by the Icelandic Government, pending the revision of the waste prevention programme, the Authority is of the view that a new case should be opened for the Authority to continue its assessment of Iceland's waste prevention programme.

3.3 Other issues

In the frame of its conformity assessment, the Directorate requested information from the Icelandic Government relating to the implementation of several provisions of the Waste Framework Directive in its letter of 3 February 2015 (Document No 742914), namely:

- Article 2: the Directorate wished to understand whether the Icelandic framework covered the management of waste at sea, and therefore ensured that this management fulfilled the conditions set out in the Waste Framework Directive;
- Article 3: the Directorate wished to understand whether and how the provisions of the Waste Framework Directive related to dealers and brokers had been implemented in Iceland;
- Article 7: the Directorate asked the Icelandic Government to confirm that the list applied to define hazardous waste in Iceland is similar to the list referred to in Article 7 of the Waste Framework Directive, and that the Icelandic framework

- forbids the dilution of hazardous waste, in accordance with Article 7(4) of the Waste Framework Directive;
- Article 15: the Directorate invited the Icelandic Government to clarify how this provision, which details the requirement for the responsibility to carry out recovery or disposal operation, had been transposed;
 - Article 17: the Directorate invited the Icelandic Government to clarify how this provision, which sets out requirements for waste traceability, had been transposed;
 - Article 19: this provision requires waste transfers to be accompanied by an identification document, containing the appropriate data specified in Annex IB to *Regulation (EC) No 1013/2006*.¹⁵ The Directorate asked the Icelandic Government to confirm that the information requested in Iceland is similar to this annex;
 - Article 21: this provision sets requirements for the collection and treatment of waste oils. The Directorate asked the Icelandic Government to explain how this provision had been transposed in Iceland;
 - Article 23: this provision concerns requirements for permits for establishments or undertakings carrying out waste treatment. The Directorate asked the Icelandic Government to explain how this provision had been transposed in Iceland;
 - Article 26: this provision requires the Member States to keep a register of establishments or undertakings collecting waste on a professional basis. The Directorate asked the Icelandic Government to explain how this provision had been transposed in Iceland;
 - Article 35: this provision sets record keeping obligations upon indicated establishments and undertakings in waste treatment. The Directorate asked the Icelandic Government to confirm that the notion of “holder of hazardous waste”, used in the Icelandic framework, encompasses all indicated entities companies, including brokers and dealers which appear to not have transposed in the Icelandic framework.

The Icelandic Government provided in its letter of 14 April 2015 (Document No 754042) the following clarifications with regard to the transposition of the above-mentioned provisions of the Waste Framework Directive:

- Article 2: the Icelandic Government explained that Articles 8-11 of Act No 33/2004 on the Protection against the Pollution of Oceans and Shores¹⁶ includes rules on prohibition of release of pollutants to oceans, incineration at sea and on the reception of waste and sewage in harbours. Furthermore, the Icelandic Government explained that Act No 33/2004 was considered as *lex specialis* in relation to Act No 55/2003 on Waste Management (“the Waste Management Act”)¹⁷ and applies especially to management of waste at sea. In cases where Act No 33/2004 does not apply, the general legislation on waste management, i.e. the Waste Management Act, applies;
- Article 3: the Icelandic Government explained that because of the absence of dealers and brokers in Iceland, these terms had not been transposed in Icelandic legislation or regulations on waste. Furthermore, the Icelandic Government explained that the responsibilities placed on dealers and brokers in the Waste Framework Directive in Iceland were borne by other parties according to the Waste Management Act, for example waste holders, waste producers and waste operators;

¹⁵ Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste, OJ L 190, 12.07.2006, p. 1. Act referred to at point 32c of Annex XX to the EEA Agreement.

¹⁶ Act no 33/2004 on the Protection against the Pollution of Oceans and Shores (Lög nr. 33/2004 um varnir gegn mengun hafis og stranda).

¹⁷ Act no 55/2003 on Waste Management (Lög nr. 55/2003 um meðhöndlun úrgangs).

- Article 7: the Icelandic Government explained that Article 54 of the Waste Management Act and Article 6 of Regulation No 806/1999 on Hazardous Waste,¹⁸ forbidding the dilution of hazardous waste, transposes the waste list referred to in Article 7 of the Directive;
- Articles 17 and 35: the Icelandic Government explained that these provisions are implemented in Article 56 of the Waste Management Act on registration of hazardous waste;
- Article 19: the Icelandic Government explained that Regulation (EC) No 1013/2006 has been implemented through the Icelandic Regulation No 822/2010 on the shipment of waste between states,¹⁹ as amended, and therefore in line with the Directive;
- Article 21: the Icelandic Government explained in detail the regime for the collection and treatment of waste oils. According to Article 8(1) of Act No 162/2002 on Recycling Fees²⁰ a recycling fee on oil products is collected before the products are placed on the market after manufacture or importation. The purpose of the fee is to cover the recovery cost on any waste remaining when the product's service life is over. As appropriate, the fee might cover the cost of handling sorted waste at a collection point, transporting the waste from a collection point to a central accumulation point or recovery point, and recovering or disposing of the waste and paying the fee. In addition, and according to Article 8(3)-(4), companies or industries are allowed to negotiate with the Icelandic Recycling Fund on the management of heavy oil. The oil companies in Iceland have made a contract in this regard with the Icelandic Recycling Fund and are therefore responsible for all management of waste from heavy oils in Iceland. Furthermore, the Icelandic Government explained that Article 21(1) of the Directive is also implemented through Articles 5.4, 6, 7 and 8 of Regulation No 809/1999 on Waste Oils²¹;
- Article 23: the Icelandic Government confirmed that this provision was transposed in Articles 14(2) and 15 of the Waste Management Act. The Icelandic Government further indicated that Chapters III and IV of Regulation No 785/1999 on Operational Licenses²² reflect the requirements on the issuance of permits, Chapter IV of Regulation No 738/2003 on Landfill of Waste²³ reflects the requirements for landfill sites and Chapter III of Regulation No 739/2003 on Waste Incineration²⁴ reflects further the requirements for incineration stations;
- Article 26: the Icelandic Government explained the decision not to have a registry of establishments or undertakings collecting waste on a professional basis, since the management of waste for establishments, undertakings and companies was already subject to permit requirements in Iceland from either the local health inspectorate or the Environment Agency of Iceland according to Article 14 of the Waste Management Act;
- Article 35: the Icelandic Government confirmed that the scope of the notion of "holder of hazardous waste" in Article 56 of the Waste Management Act was aligned with this provision of the Waste Framework Directive.

Moreover, the Icelandic Government committed in its letter of 14 April 2015 (Document No 754042) to clarify in its legal framework the division of responsibility for the treatment of waste. Following exchanges with the Directorate, the Icelandic Government also

¹⁸ Regulation no 806/1999 on Hazardous Waste (Reglugerð nr. 806/1999 um spilliefni).

¹⁹ Regulation no 822/2010 on the shipment of waste between states, as amended (Reglugerð nr. 822/2010 um flutning úrgangs).

²⁰ Act no 162/2002 on Recycling Fees (Lög nr. 162/2002 um úrvinnslugjald).

²¹ Regulation no 809/1999 on Waste Oils (Reglugerð nr. 809/1999 um olíuúrgang).

²² Regulation no 785/1999 on the Operational Licenses (Reglugerð nr. 785/1999 um starfsleyfi fyrir atvinnurekstur sem getur haft í för með sér mengun).

²³ Regulation no 738/2003 on Landfill of Waste (Reglugerð nr. 738/2003 um urðun úrgangs).

²⁴ Regulation no 739/2003 on Waste Incineration (Reglugerð nr. 739/2003 um brennslu úrgangs).

committed to transpose the Waste Framework Directive's provisions related to dealers and brokers, as requested.

Subsequently, on 14 June 2017 the Icelandic Government adopted Act No 65/2017²⁵ amending the law on waste management and the law on measures against environmental pollution caused by disposable packaging for beverages. This Act i.a. included:

- transposition of the terms “dealers” and “brokers” as defined in the Waste Framework Directive; and
- clarification of the division of responsibility for the treatment of waste by stipulating that the responsibilities of the producer of waste or the holder of waste to reuse or dispose of waste does not expire, even if waste has been transferred to public or private entities.

Based on the above, the Authority is of the view that the issues identified in its conformity assessment have been adequately addressed and resolved by the Icelandic Government in the course of the exchange and interactions with Iceland.

4 Conclusion

In light of the issues that have been resolved by Iceland, and for the best administration of cases following the incorporation of the Amending Directive into the EEA Agreement, this case should be closed and the Authority will pursue its monitoring of Iceland's progress towards complying with Articles 28 and 29 of the Directive in a new case (case 89615) taking into account the Amending Directive.

HAS ADOPTED THIS DECISION:

This Conformity Assessment case concerning the Waste Framework Directive 2008/98/EC in Iceland, is hereby closed.

For the EFTA Surveillance Authority

Arne Røksund
President

Stefan Barriga
College Member

Árni Páll Árnason
Responsible College Member

Melpo-Menie Joséphidès
Countersigning as Director,
Legal and Executive Affairs

This document has been electronically authenticated by Arne Roeksund, Melpo-Menie Josephides.

²⁵ Act No 65/2017 amending the act on waste management and the Act on measures against environmental pollution caused by disposable packaging for beverages (Lög nr. 65/2017 Lög um breytingu á lögum um meðhöndlun úrgangs og lögum um ráðstafanir gegn umhverfismengun af völdum einnota umbúða fyrir drykkjarvörur (EES-reglur o.fl.)).