

## FACT SHEET

### **ESA intervenes before Icelandic courts for the first time by submitting written observations in a case between the Icelandic Competition Authority and Byko hf./Norvík hf.**

#### **The EFTA Surveillance Authority**

- Ensures that Norway, Iceland and Liechtenstein respect the EEA Agreement.
- Protects the rights of individuals and market participants.
- Ensures timely implementation of EEA law.
- Pursues breaches of EEA law.
- Enforces the rules concerning state aid.
- Takes action against breaches of the EEA competition rules.

#### **What are “amicus curiae” observations?**

The EFTA Surveillance Authority (“ESA”), acting on its own initiative, may submit written observations (“*amicus curiae*” observations) to courts of the EFTA States where the coherent application of EEA-competition rules, namely Articles 53 or 54 EEA, so requires. With the permission of the court in question, ESA may also make oral observations.

ESA submits such written observations pursuant to Article 15(3) of Chapter II of Protocol 4 to the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice, implemented in Icelandic law by Article 28(2) of the Icelandic Competition Act no. 44/2005.

Article 15(3) allows ESA, on its own initiative to submit written observations to the Icelandic courts. ESA’s [Notice on Co-operation with the courts of the EFTA States in the application of Articles 53 and 54 EEA](#) sets out details concerning ESA’s right to submit written observations, as well as other forms of co-operation with national courts.

This is the first time that ESA submits written observations before Icelandic courts. ESA has, however, on two occasions submitted observations before Norwegian courts. They can be found **here**. (hyperlink: <http://www.eftasurv.int/competition/national/co-operation-with-national-courts/>)

### **Why does ESA submit such observations?**

*Amicus curiae* is Latin for “friend of the court”. The purpose of *amicus curiae* observations is to submit written observations, as an expert opinion, to guide the national courts on legally consistent, uniform and effective application of EEA law.

ESA submits *amicus curiae* observations based on its knowledge and experience in enforcing EEA competition rules, a task with which it has been entrusted through the EEA Agreement. The *amicus curiae* observations provide the national court with a description of EEA law as regards the subject matter of the case.

### **What is ESA’s role in such interventions?**

Acting as *amicus curiae*, ESA respects the independence of the national court. The assistance offered by ESA is part of its duty to defend the public interest, but it does not bind the court. ESA has therefore no intention to serve the interests of the parties involved in the case pending before the Court and will not comment on particular submissions of the parties to the case. ESA is committed to remaining neutral and objective in its assistance.

*Amicus curiae* observations provide guidance to national courts on relevant aspects of EEA law. They are not intended to give instructions on how the national court should decide the specific matters before it in a case; nor are they intended to provide any interpretation of national law.