

Case handler: Eva Hauksdottir
Tel: +32 491 16 01 04
e-mail: Eva.Hauksdottir@eftasurv.int

Brussels, 19 December 2025
Case No: 91803
Document No: 1581528

Ministry of the Environment, Energy and Climate
Borgartún 26
105 Reykjavík
Iceland

Dear Sir or Madam,

Subject: Pre-infringement letter: Own initiative case concerning the electricity market in Iceland

1. Introduction

By a letter dated 19 March 2024,¹ the EFTA Surveillance Authority (“the Authority”) informed the Icelandic Government that it had opened an own initiative case concerning Iceland’s implementation of Directive 2009/72/EC (“the Electricity Directive”) and Directive 2005/89/EC (“the Security of Supply Directive”) and invited the Icelandic Government to submit tables of correspondence for each directive.

The focus set out in this letter by the Internal Market Affairs Directorate (“the Directorate”) follows from the obligations placed on EEA States under Article 7 of the Electricity Directive, which requires that procedures for authorising new electricity generation be based on objective, transparent and non-discriminatory criteria, and under Article 3(1) of the Security of Supply Directive, which requires States to ensure a high level of security of electricity supply, including by facilitating a stable investment climate. In assessing compliance with those obligations, the Directorate has examined whether the national framework governing access to the generation market, including pre-authorisation and planning mechanisms, is structured and applied in a manner that supports a stable investment climate.

Against this background, the Directorate’s preliminary assessment set out in this letter indicates that certain aspects of the framework applied under the Icelandic Master Plan for Nature Protection and Energy Utilisation (Rammaáætlun) (“the Master Plan”) raise questions as to whether the relevant requirements are met. In particular, the assessment examines whether the Master Plan ensures objective, transparent and non-discriminatory conditions for access to the authorisation process for new electricity generation. Moreover, it examines whether, in practice, the Master Plan contributes to a stable investment climate for security of supply.

2. Background

Iceland submitted tables of correspondence for the Electricity Directive and the Security of Supply Directive on 13 September 2024 and 6 October 2024.² This was followed by the Directorate’s supplementary request of 4 February 2025, which sought clarifications in several areas relating to public service obligations, monitoring and reporting obligations, mechanisms to ensure capacity, and the functioning of the Master Plan.³

The Icelandic authorities replied to the supplementary request by letters of 21 March 2025 and 5 May 2025, providing further explanations and updates.⁴

¹ Document No 1442925.

² Document Nos 1482410 and 1488576.

³ Document No 1509091.

⁴ Document Nos 1580171 and 1539346.

These matters were discussed during the Authority's package meetings in Iceland on 15-16 May 2024 and 7-8 May 2025, which were followed by follow-up letters of 6 June 2024 and 2 June 2025 summarising the Authority's understanding of the discussions and requesting additional information.⁵ In addition, a dedicated meeting on the Master Plan took place on 9 September 2025, where the Directorate and the Icelandic authorities discussed several of the outstanding issues.⁶

In light of the information exchanged to date, the Directorate focused its assessment at this stage on the Master Plan and its implications for the obligations arising under the Electricity and Security of Supply Directives. In the context of the present case, the Icelandic authorities have drawn attention to a number of parallel initiatives relevant to security of electricity supply which have been noted. The Directorate continues in parallel its assessment of the conformity of Icelandic law with the other provisions of the Electricity and Security of Supply Directives.

2. EEA law

The Electricity and the Security of Supply Directives set a framework to ensure security of supply. Requirements relate amongst others to the authorisation of generation capacity.

The Electricity Directive sets requirements for the authorisation procedure:

Article 7(1) of the Electricity Directive reads as follows:

"Authorisation procedure for new capacity

1. For the construction of new generating capacity, Member States shall adopt an authorisation procedure, which shall be conducted in accordance with objective, transparent and non-discriminatory criteria."

Article 7(4) of the Electricity Directive reads as follows:

"4. The authorisation procedures and criteria shall be made public. Applicants shall be informed of the reasons for any refusal to grant an authorisation. Those reasons shall be objective, non-discriminatory, well-founded and duly substantiated. Appeal procedures shall be made available to the applicant."

The Security of Supply Directive establishes a framework for ensuring a high level of security of electricity supply, by i.a.:

Article 3(1) of the Security of Supply Directive reads as follows:

"1. Member States shall ensure a high level of security of electricity supply by taking the necessary measures to facilitate a stable investment climate and by defining the roles and responsibilities of competent authorities, including regulatory authorities where relevant, and all relevant market actors and publishing information thereon. The relevant market actors include, inter alia, transmission and distribution system operators, electricity generators, suppliers and final customers."

Article 3(3) of the Security of Supply Directive reads as follows:

"3. In implementing the measures referred to in paragraph 1, Member States may also take account of:

- (a) the degree of diversity in electricity generation at national or relevant regional level;*
- (b) the importance of reducing the long-term effects of the growth of electricity demand;*

⁵ Document Nos 1458836 and 1536356.

⁶ Document No 1571382.

- (c) *the importance of encouraging energy efficiency and the adoption of new technologies, in particular demand management technologies, renewable energy technologies and distributed generation;*
- (d) *the importance of removing administrative barriers to investments in infrastructure and generation capacity.”*

3. The Master Plan framework in Iceland

The Master Plan, established under Act No. 48/2011,⁷ is Iceland’s tool for classifying whether areas with potential energy resources should be used, protected, or subjected to further study. It aims to provide a long-term framework that balances energy development with environmental, cultural, and societal interests.

While not a licensing system, the Directorate understands that, in practice, a project for new electricity generation may proceed to the subsequent stages of the formal authorisation process only where it is associated with an area placed in the utilisation category, and not where the area concerned is classified under the waiting or protection categories.

At a high level, the Directorate understands that the Master Plan functions as follows:⁸

- It applies a holistic assessment of proposed energy projects, considering nature conservation, cultural heritage, economic viability, social impacts, and interactions with other land uses.
- Developers submit proposals to the National Energy Authority, which verifies that required technical, environmental, and spatial information is complete.
- A Master Plan Project Board (“the Project Board”), appointed for a four-year term, oversees the evaluation of all proposals.
- Four multidisciplinary expert groups assess each proposal.
- The Project Board consolidates these assessments and issues a proposed classification for each project.
- Proposed classifications are published for public consultation and are considered together with the strategic environmental assessment of the Master Plan. The Project Board then delivers its reasoned proposals on classifications to the Minister of the Environment, Energy and Climate.
- The Minister receives the Project Board’s proposals and reviews both the classifications and the underlying reasoning. The Minister may adopt the Project Board’s proposals unchanged or propose changes to the classifications. If changes are made, they must undergo public consultation before being finalised. The Minister then submits the government’s final version of the Master Plan to Parliament as a draft parliamentary resolution.
- Parliament refers the proposal to the appropriate parliamentary committee, typically the Environment and Transport Committee. The committee conducts a detailed review, may request written submissions or expert testimony, and evaluates whether amendments are needed. The committee itself does not formally “change” classifications at this stage; instead, it prepares a committee opinion (nefndarálit) that may recommend amendments, including alternative classifications, for Parliament to vote on.
- Parliament has final amendment and decision-making authority. Members of Parliament (“MP”) vote on any amendments recommended by the committee or introduced by any individual MP, and may modify project classifications regardless

⁷ Lög nr. 48/2011 um verndar- og orkunýtingaráætlun.

⁸ Ramma.is and Government of Iceland, Review of the Master Plan legislation - Report of the Working Group (Reykjavik: Ministry of Environment, Energy and Climate, November 2024).

of the Project Board's or the Minister's proposals. Parliament then votes on the final form of the resolution.

- Once Parliament adopts the resolution, the classifications become legally binding. Projects placed in the utilisation category may proceed to the planning, environmental assessment, and permitting system.

The Directorate understands that until the parliamentary decision is made, no licence or environmental permit can legally be issued for the project, and no project can commence without such licenses or permits.

As a consequence, the Master Plan forms an integral part of how Iceland regulates access to the generation market and is therefore directly relevant to Iceland's compliance with EEA requirements on authorisation of new electricity generation.

The Directorate notes that the Icelandic Government has introduced a bill proposing amendments to the Master Plan framework legislation.⁹

4. The Directorate's current understanding and concerns

4.1 Introduction

The Directorate is aware that Iceland has experienced recurring constraints on security of supply during the winter months, largely due to the characteristics of an isolated electricity system that can become vulnerable under adverse weather conditions and low reservoir levels. In that context, the Directorate considers it appropriate to assess the relevant national instruments against the requirements of EEA law governing the authorisation of generation capacity and the conditions for safeguarding the security of electricity supply.

In November 2024, the Icelandic Government published a report by a working group established by the Government to examine the existing Master Plan framework and propose reforms aimed at improving overall system efficiency and simplifying the regulatory regime.¹⁰ The report highlights several contextual drivers that made this reassessment urgent, including the 2022 majority opinion of the parliamentary Environment and Transport Committee, which emphasised the need to rebuild trust, increase transparency and ensure that the Master Plan better supports both energy security and sustainability.¹¹

Against this background, the Directorate's assessment in this letter concentrates on how the Master Plan affects the authorisation regime applicable to new generation capacity. The Directorate is of the view that the current structure and functioning of the Master Plan contain elements that may not be fully aligned with Iceland's obligations under EEA law.

In particular, two areas of concern arise in this respect.

First, the criteria and process governing the classification decisions under the Master Plan raise questions as to whether they ensure the transparency, objectivity and equal treatment required by Article 7 of the Electricity Directive, in particular given the implications such decisions have for access to subsequent authorisation procedures.

Second, the manner in which the Master Plan structures and sequences decision-making over time, including the overall length and foreseeability of its procedures, raises questions as to whether the framework, in practice, provides a stable and predictable environment for investment in new generation capacity, as required under Article 3(1) of the Security of Supply Directive.

⁹ Frumvarp til laga um breytingu á lögum um verndar- og orkunýtingaráætlun og raforkulögum (orkuöflunarstefna, aukin skilvirkni o.fl.). 229. mál, 157. löggjafarþing 2025-2026.

¹⁰ Government of Iceland, Review of the Master Plan legislation - Report of the Working Group (Reykjavík: Ministry of Environment, Energy and Climate, November 2024).

¹¹ Ibid, p. 17.

4.2 Impact of the Master Plan on the authorisation procedure for new generation capacity

Under Article 7 of the Electricity Directive, States must ensure that authorisation procedures for new generating capacity are conducted according to objective, transparent, and non-discriminatory criteria.

As no authority can issue a licence or environmental permit before a project is placed in the utilisation category of the Master Plan, the classification effectively determines whether a project can access the authorisation system at all. Transparency and consistency of the Master Plan process are therefore directly relevant to Iceland's compliance with Article 7 of the Electricity Directive.

While the Master Plan was designed to combine environmental protection with long-term energy planning, information available to the Directorate, including the Government's working group report on the revision of the Master Plan legislation, referred to above, indicates that the present framework shows risk of insufficiently clear, uniform or predictable criteria for decision-making. The report describes the current approach as uncertain and inconsistently applied, with requirements for documentation that are said to be unclear and arbitrary.¹² Different expert groups reportedly apply divergent methods and weighting systems, resulting in varying standards of evaluation between projects and across planning phases.¹³

Furthermore, the Directorate is not aware of any defined or published criteria that are binding for the purposes of the final classification or reclassification of projects. While the Master Plan provides for expert assessment and recommendations by the Project Board, the framework does not appear to specify objective criteria governing departures from those recommendations at the final stage.

In this context, the Directorate notes the example of the Búrfellslundur wind project, where the Environment and Transport Committee of the Parliament proposed that the power plant option be moved from the waiting category to the utilisation category of the Master Plan. In its reasoning, the committee emphasized that "the power plant option is managed by a publicly owned company".¹⁴

In its earlier correspondence,¹⁵ the Directorate invited the Icelandic Government to explain the relevance of public ownership considerations in the reclassification of the power plant option, seeing as the criteria for public ownership could not be identified in the Master Plan framework as a relevant criterion for classification. In particular, the Directorate asked how the reference to the project being managed by a publicly owned company was relevant to categorisation under the Master Plan, how such reasoning was compatible with the objectives of the Electricity Directive and the Security of Supply Directive, and whether similar considerations related to public ownership had been applied in other cases.

In its reply,¹⁶ the Icelandic Government stated that public ownership should not be a determining factor in project categorisation and that the Committee's reference to public ownership was not decisive but merely contextual, emphasizing instead system-related considerations such as efficiency and the interaction with existing hydropower infrastructure.

The Directorate observes, however, that the example illustrates the absence of clear, binding criteria governing reclassification decisions within the Master Plan framework. In

¹² Ibid, p. 25.

¹³ Ibid, pp. 30-31.

¹⁴ The Opinion of the Environment and Transport Committee of the Parliament of 10 June 2022. See Parliament Document No 1210, Case No 332, Committee Opinion on a proposal for parliamentary resolution on a plan for the protection and energy utilization of land areas. See link: <https://www.althingi.is/altext/152/s/1210.html?fbclid=IwAR1QjFiXw2IGXN4pbFfEvt9br0jsau15yTKY9tHWxlyk-bqK7kMY2p9ERks>.

¹⁵ Supplementary Request for Information concerning the Conformity Assessment on the Electricity Market in Iceland. Document No. 1509091.

¹⁶ Response to supplementary Request for Information concerning the Conformity Assessment on the Electricity Market in Iceland. Document No. 1580717.

particular, a framework that allows projects to be reclassified at a decisive stage for market entry without reference to objective, transparent and pre-established criteria, does not provide the procedural guarantees required under Article 7 of the Electricity Directive. On that basis, the Directorate considers that the Master Plan framework, as currently applied, does not ensure an objective, transparent and non-discriminatory authorisation process.

The Directorate notes that the bill proposing the revision of the Master Plan legislation introduces a number of amendments to the existing framework. However, the bill does not introduce binding substantive criteria governing classification decisions, nor does it establish objective and transparent standards that would constrain discretion when modifying or reclassifying projects. In particular, the bill does not define the grounds on which deviations from the Project Board's recommendations may be made. Furthermore, the bill does not limit the factors that may be taken into account at the political decision-making stage, and it does not introduce safeguards to ensure equal treatment of projects in this process. As such, while the proposed amendments may streamline certain procedural aspects of the Master Plan, they do not address the underlying concerns identified above regarding compliance with Article 7 of the Electricity Directive.

4.3 Administrative barriers to investment leading to delays in generation capacity development

Article 3 of the Security of Supply Directive establishes a set of interrelated obligations aimed at ensuring that electricity systems are capable of responding to evolving demand and maintaining security of supply over time. In particular, Article 3(1) requires EEA States to take the necessary measures to facilitate a stable investment climate as a central element of the objective of safeguarding security of electricity supply. In implementing those measures, Article 3(3) specifies considerations that may inform how the obligation under Article 3(1) is to be given effect, including taking into account the long-term effects of demand growth and the importance of avoiding administrative impediments to investment in infrastructure and generation capacity. Read in this context, Article 3 requires that national frameworks governing electricity generation investment be designed and applied in a manner that enables new capacity to be developed in a timely and effective manner, consistent with long-term security-of-supply considerations.

Against this legal background, while the EEA framework does not prescribe a specific institutional or procedural model, it requires that national planning and authorisation arrangements be assessed in light of whether, taken together, they are conducive to the facilitation of investment in generation capacity in line with the objectives of security of electricity supply.

Available information indicates that the Master Plan process is lengthy and administratively demanding. While the Master Plan was established as an instrument intended to balance the utilisation of energy resources with their protection, its operation in practice is closely linked to individual project submissions.

The assessment of projects involves multiple actors, including expert groups, the Project Board, the Ministry and Parliament, each undertaking distinct review and consultation steps. No binding deadlines apply to the completion of these stages. As noted in the Government's November 2024 working group report, the period between technical assessment, ministerial submission and parliamentary approval may extend over several years, with individual projects remaining in the process for up to nine years.¹⁷ The report further observes that delays arise predominantly at the ministerial and parliamentary stages rather than during expert assessment, including delays linked to political developments such as changes in government and electoral cycles.¹⁸ As a result, projects may remain pending within the Master Plan framework for extended periods, introducing uncertainty

¹⁷ Government of Iceland, Review of the Master Plan legislation – Report of the Working Group (Reykjavík: Ministry of Environment, Energy and Climate, November 2024), pp. 24-25.

¹⁸ Ibid, p. 21.

into the conditions under which investment decisions are taken and raising concerns as to whether the framework, as applied, facilitates the stable investment climate referred to in Article 3(1) of the Security of Supply Directive.

In light of the above, the Directorate considers that the combination of prolonged and unpredictable procedures, the absence of binding timelines, and the lack of mechanisms linking project assessment to an anticipatory view of generation needs raises concerns as to whether the framework, in practice, supports the stable and predictable investment climate required under Article 3(1) of the Security of Supply Directive, in a manner that avoids unnecessary administrative impediments to investment of the kind identified as relevant in Article 3(3) of that Directive.

The Directorate notes that the bill proposing amendments to the Master Plan legislation introduces time limits for certain administrative phases of the process and, in principle, could allow projects to progress through the Master Plan within a shorter timeframe. However, these timelines represent a best-case scenario and remain subject to multiple qualifications, including extensions where additional information is requested, classifications are revisited, or further consultations are required. Moreover, the proposed amendments do not introduce binding time limits for parliamentary consideration, nor do they alter the sequential structure whereby placement in the utilisation category remains a prerequisite for access to permits and licenses under sectoral legislation. As a result, the amendments do not remove the structural risk of prolonged and unpredictable timelines as identified above, nor do they fully address the concerns relating to the facilitation of a stable and predictable investment climate under Article 3(1) of the Security of Supply Directive.

5. Preliminary view

On the basis of the assessment set out in Chapter 4 above, the Directorate's preliminary view is that the current Master Plan framework, as applied in practice, raises concerns as to its compatibility with the requirements of the EEA electricity acquis. In particular, the way project classification decisions are taken and revised gives rise to questions regarding compliance with the objectivity, transparency and non-discrimination requirements of Article 7 of the Electricity Directive. In addition, the structure and operation of the Master Plan, taken as a whole, raise concerns as to whether the framework, in practice, supports a stable and predictable investment climate capable of enabling the development of new electricity generation capacity, as required under Article 3(1) of the Security of Supply Directive. While legislative amendments are under preparation, it is not evident that these measures will fully address the structural concerns identified.

In light of the above, the Icelandic Government is invited to submit its observations on the content of this letter by 27 February 2026. After that date, the Authority may consider, in light of any observations received from the Icelandic Government, whether to initiate infringement proceedings in accordance with Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and Court of Justice.

The Directorate remains available to continue the constructive dialogue with the Icelandic authorities on the concerns identified in this letter and on how they may be addressed in practice.

Yours faithfully,

Jónína S. Lárusdóttir
Director
Internal Market Affairs Directorate

This document has been electronically authenticated by Jonina S. Larusdottir.