

EFTA COURT

Request for an Advisory Opinion from the EFTA Court by the Public Procurement Complaints Committee dated 18 December 2019 in the case of Hraðbraut ehf. v mennta- og menningarmálaráðuneytið, Verzlunarskóli Íslands ses., Tækniskólinn ehf., and Menntaskóli Borgarfjarðar ehf.

(Case E-13/19)

A request has been made to the EFTA Court dated 18 December 2019 from the Public Procurement Complaints Committee (kæruneftnd útboðsmála), which was received at the Court Registry on 23 December 2019, for an Advisory Opinion in the case of Hraðbraut ehf. v mennta- og menningarmálaráðuneytið, Verzlunarskóli Íslands ses., Tækniskólinn ehf., and Menntaskóli Borgarfjarðar ehf. on the following questions:

- 1. Is a contract into which a ministry enters with an entity that is licensed to operate as an upper secondary school, by which the entity in question undertakes to provide pupils and teachers with services and facilities that are customary at the upper secondary level, and in which allowance is made for financial contributions, to be considered as a public service contract in the sense of Directive 2014/24/EU (cf. in particular, Article 2(9))?**
- 2. Do services of the type described in Question 1 constitute social services or other specific services in the sense of Article 74 of Directive 2014/24/EU, and if so, should the provisions of Chapter I of Title III of the Directive apply regarding the procurement regime?**
- 3. Is it of significance, for the resolution of Questions 1 and 2, whether consideration for the services in question is determined in budget legislation from the Icelandic Parliament or in accordance with a decision by a minister on the basis of applicable domestic law and rules?**
- 4. Is the Minister of Education, Science and Culture obliged to apply a procurement procedure based on Directive 2014/24/EU regarding the procurement of services covering the operation of schools and instruction at upper secondary level in return for financial contributions?**