

## EFTA COURT

### **Request for an Advisory Opinion from the EFTA Court by Hæstiréttur Íslands dated 10 December 2015 in the case of Sorpa bs. v The Competition Authority**

**(Case E-29/15)**

A request has been made to the EFTA Court by a letter dated 10 December 2015 from Hæstiréttur Íslands (the Supreme Court of Iceland), which was received at the Court Registry on 10 December 2015, for an Advisory Opinion in the case of Sorpa bs. v The Competition Authority on the following questions:

- 1. Is a municipality in a Contracting Party to the EEA Agreement which carries out, in its jurisdiction, the management of waste in conformity with the provisions of Directives 75/442/EEC, 1999/31/EC and 2000/76/EC, an undertaking in the sense of Article 54 of the Agreement? In this connection, the Court asks whether, when this question is answered, the following are of significance: a) That the treatment of waste is among the legally-prescribed functions of municipalities according to the laws of the relevant Contracting Party. b) That competition may exist over the treatment of waste between private entities and public entities under the laws of the Contracting Party. c) That it is prescribed, in the laws of the Contracting Party, that in this field, a municipality may not charge a higher fee than covers the cost of the treatment of waste and related activities.**
- 2. If the answer to the first question is in the negative, does the same apply to a cooperative undertaking which is operated by two or more municipalities and attends, on their behalf, to the management of waste in their operating areas?**
- 3. When assessing whether Article 54 EEA applies to an activity of a municipality or a cooperative undertaking, is it of significance that the laws of the Contracting Party in question contain provisions authorising or obliging public bodies to perform the activity? Is it compatible with the EEA Agreement that a Contracting Party exempts, through legislation, certain activities by public entities from the scope of competition law?**
- 4. Can municipalities which are the owners of a cooperative undertaking such as the one referred to in Question 2 be considered as its trading parties in the sense of Article 54(2)(c) EEA? And if so, does a discount granted to the owners which is not available to other parties constitute placing other parties at a disadvantage in the sense of the same provision?**