



## INFORMATION NOTE

A request from Reykjavik District Court (*Héraðsdómur Reykjavíkur*), dated 15 April 2025, was lodged on 5 May 2025, requesting the EFTA Court give an advisory opinion pursuant to Article 34 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice. This request was registered as Case E-7/25 - *Ólafur Þór Jónsson and others v The National Energy Authority of Iceland (Orkustofnun) and Benchmark Genetics Iceland hf.*, on 5 May 2025.

In the request for an advisory opinion the Princely Supreme Court sent the following question to the EFTA Court;

*Whether the provisions of Directive 2000/60/EC, in particular the provisions of that Directive's Article 4, must be interpreted as precluding the granting of authorisation for a project which may potentially affect the status of a groundwater body for which classification and status assessment in the river basin management plan are required under that directive, prior to such assessment having been conducted and its results set forth in a river basin management plan in accordance with that directive's provisions. That the provision bars the authorisation of a project, irrespective of whether a status assessment has been conducted, if the assessment results have not been set forth in the river basin management plan.*

On 23 May 2025, in accordance with Article 20 of the Statute and Article 90(1) of the Rules of Procedure of the EFTA Court, the Governments of the EFTA States, the EFTA Surveillance Authority, the Union (which includes the Governments of the EU States), the European Commission and the parties to the dispute were invited to submit written observations to the Court on the referred questions within two months.

The Court received and registered written observations from:

Ólafur Þór Jónsson and others

The National Energy Authority of Iceland (Orkustofnun)

The EFTA Surveillance Authority

The European Commission

The submitted suggested answers to the question posed by the referring Court are as follows:

## **Ólafur Þór Jónsson and others**

Directive 2000/60/EC, in particular the provisions of that Directive's Article 4, must be interpreted as precluding the granting of authorisation for a project which may potentially affect the status of a groundwater body for which classification and status assessment in the river basin management plan are required under that directive, prior to such assessment having been conducted and its results set forth in a river basin management plan in accordance with the Directive's provisions. Article 4 of Directive 2000/60 bars the authorisation of a project, irrespective of whether a status assessment has been conducted, if the assessment results have not been set forth in the river basin management plan.

## **The National Energy Authority of Iceland (Orkustofnun)**

Directive 2000/60, in particular Article 4 of that directive, must be interpreted as not precluding the granting of authorisation for a project which may potentially affect the status of a groundwater body, irrespective of whether the status of that groundwater body has been presented in a river basin management plan, given that during the procedure for authorisation of the project, and therefore before the decision is taken, the competent national authorities have ascertained that the project will not have adverse effects on the groundwater body which would be contrary to the requirements to prevent deterioration and to improve the status of bodies of groundwater.

## **The EFTA Surveillance Authority**

1. Article 4 of the Water Framework Directive requires that prior to granting authorisation for a project which may potentially affect the status of a groundwater body which is subject to the classification and status requirements of the Directive, the current status of the groundwater body and the potential impact of the project on that status must be assessed. That assessment is to be made publicly available, in line with the requirements of the Environmental Impact Assessment Directive, and should form an integral part of the decision-making when issuing such a licence.

2. The assessment of the current status and potential impact of the project should be included in the next update of the applicable River Basin Management Plan. However, the Directive does not preclude such authorisation until such time as an updated river basin management plan has been published.

## **The European Commission**

Article 4 of 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 must be interpreted as precluding the granting of an authorisation for a project which may potentially affect the status of a groundwater body for which classification and status

assessment in the river basin management plan are required under that directive, prior to such assessment having been conducted. Article 4 of the Water Framework Directive must be interpreted as not barring the authorisation of a project, if the assessment results have not been set forth in the river basin management plan, as long as an assessment in line with Article 4(7) of the Water Framework Directive has been carried out, which includes prior classification of the water body in question, and its results will be set forth in the subsequent river basin management plan.

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The public hearing of the Court in Case E-7/25 - *Ólafur Þór Jónsson and others v The National Energy Authority of Iceland (Orkustofnun) and Benchmark Genetics Iceland hf.*, has been set for: **Wednesday 1 October at 9:30am** at the EFTA Court (1 rue du Fort Thüngen, L-1499, Luxembourg). The hearing will also be livestreamed on the Court's website, [here](#).

Luxembourg, 3 September 2025

Ólafur Jóhannes Einarsson  
Registrar