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Response of the Icelandic Government to the EFTA Surveillance Authority – Case No: 94974

Reference is made to the EFTA Surveillance Authority's letter dated 13 March 2026, whereby the Icelandic authorities were requested to provide information concerning the retail sale of alcoholic beverages by the State Alcohol and Tobacco Monopoly of Iceland (ÁTVR).

The Ministry of Finance and Economic Affairs hereby respectfully submits the following information to the Authority as answers to the questions posed in the before mentioned letter.

1. Can you please provide a short overview over the legal environment in Iceland governing the State monopoly for the retail sale of alcoholic beverages and the exceptions from the exclusive rights granted to ÁTVR.

The retail sale of alcoholic beverages in Iceland is governed primarily by the Alcohol Act No. 75/1998. Under this legislation, ÁTVR holds the exclusive right to conduct retail sales of alcoholic beverages to consumers through the state-operated retail network (ÁTVR).

The system is grounded in public health objectives. According to Article 1 of the Alcohol Act, the purpose of the Act is to prevent the misuse of alcohol by reducing overall alcohol consumption and ensuring controlled availability. The system forms part of a broader alcohol policy that includes restrictions on advertising, age limits, licensing requirements for on-premises service, and strict control over retail distribution.

According to Article 10 of the Alcohol Act, ÁTVR has the exclusive right to the retail sale of alcoholic beverages. While individuals are permitted to import alcohol for their own private use, any domestic retail sale or facilitation of such sales by third parties remains prohibited.

The exception for on-premises retail sales in Article 6a of the Alcohol Act allows certain small-scale producers to sell their own products directly at the production

site, subject to strict conditions, including limitations as to alcohol strength and production. The sale of alcoholic beverages in duty-free stores constitutes a further exception, based on Article 104 of the Customs Act No. 88/2005, and is limited to international travellers under a separate regulatory framework.

Licensed restaurants and bars may serve alcoholic beverages for consumption on the premises. A distinction is made between such services and retail sales, and such operations do not entail an exception from the exclusive rights granted to ÁTVR.

These exceptions are limited in scope and do not establish parallel retail channels.

Compliance with the scope of the authorisation is subject to effective enforcement, including criminal sanctions for violations of the monopoly, cf. Article 27 of the Alcohol Act, No. 75/1998. This is reflected in the enforcement record set out in Annex II.

2. When it was authorised to sell certain alcoholic beverages at production site was it assessed to what extent that would have an effect on ÁTVR's exclusive rights?

a. If so, please provide information on that assessment.

b. If not, please provide information on the views, the Icelandic Government considers that need to be taken into account for such an assessment.

The effects of introducing production-site sales on ÁTVR's exclusive rights, as well as compatibility with the EEA Agreement, were expressly assessed during the legislative process leading to Act No. 35/2022.

The preparatory works reflect that it was examined whether granting small-scale producers the possibility to sell alcoholic beverages directly at the production site could give rise to discrimination contrary to Articles 11 and 16 of the EEA Agreement. Reference was made to comparable legislation in other Nordic countries.

The measure constitutes an exception to the State monopoly. The exception was designed as a limited authorisation, subject to specific conditions and restricted to certain producers and products.

The assessment concluded that the measure would not give rise to discrimination or undermine the requirements of Article 16 EEA. The impact assessment further indicated that the amendment would not have significant societal effects and would not lead to increased alcohol consumption.

The exception is therefore structured as a narrow and proportionate derogation which does not affect the structure or functioning of the monopoly. These exceptions are limited in scope and do not establish parallel retail channels. A comparative overview of corresponding rules and exceptions in other Nordic countries is set out in Annex I.

3. How did the Icelandic legislature come to the decision of limiting the sale of alcoholic beverages at a production site to beverages with an alcoholic strength of up to 12%? Are alcoholic beverages with more alcoholic strength produced in Iceland?

The limitation to beverages with an alcohol content not exceeding 12% ABV was intended to ensure that the exception remained limited. The preparatory works explain that certain production methods may result in beverages with significantly higher alcohol content, and that it was therefore necessary to set a clear upper limit in order to prevent the retail sale of stronger alcoholic beverages outside the monopoly.

The limitation reflects a policy choice to confine the exception to lower-strength beverages and to preserve the integrity of the State monopoly.

Alcoholic beverages exceeding 12% ABV have long been produced in Iceland, including spirits such as gin, whisky, aquavit and herbal schnapps. Wine made from grapes, however, is not produced domestically for geographical and climate reasons.

4. In light of the EFTA Court's judgment in Case E-9/00 ESA v Norway, how does the Icelandic Government justify that products similar to those that enjoy the right to be sold at a production site but originate from other EEA States do not enjoy the same right to be sold outside the Icelandic State monopoly?

The exemption applies only to small-scale producers operating at a licensed production site and is limited to their own products under specific conditions. It does not constitute a general retail channel.

Products originating from other EEA States may be marketed in Iceland through ÁTVR, duty-free stores, on-premises service, or through private importation by individuals.

Unlike the measure examined by the EFTA Court in Case E-9/00, the Icelandic exemption is not defined by reference to a particular category of alcoholic beverages, nor does it favour products which, in practice, are predominantly domestically produced. It is product-neutral in design and applies irrespective of the type of alcoholic beverage, provided that the statutory conditions relating to small-scale production and production-site sales are met.

The measure therefore does not give rise to discrimination based on origin. Given its limited scope and its connection to a specific production activity, the exception does not undermine the structure or functioning of the State monopoly and is compatible with Article 16 EEA.

5. When deciding to tender out the operation of the retail sale of alcoholic beverages in duty-free stores did the Icelandic Government consider what, if any, effects that would have on the State monopoly of alcoholic beverages in Iceland and whether the change in operation would still be compatible with Article 16 EEA?

a. If so, please provide information on that assessment.

b. If not, please provide information on the views the Icelandic Government considers that need to be taken into account for such an assessment.

The effects of duty-free sales on the State monopoly and their compatibility with Article 16 EEA have been assessed and are reflected in the legislative framework governing such sales, the conditions attached to their operation, and the structure of the current tender-based arrangement. Duty-free sales of alcoholic beverages are governed by Article 104 of the Customs Act No. 88/2005 and are strictly limited to passengers in international travel. Access to such sales is conditional upon proof of travel, and the sales environment is physically separated from the domestic retail market.

Duty-free sales are functionally and legally distinct from domestic retail sales. They do not constitute a general alternative distribution channel, as access is restricted to a specific group of consumers and the conditions under which sales may take place are narrowly defined. Where the operation of duty-free stores is entrusted to private operators, this is carried out through an open, transparent and non-discriminatory tender procedure. The applicable legal and contractual framework ensures equal treatment in the procurement and selection of products, reflecting the principles underlying Article 16 EEA.

It has been noted, including in ESA practice, that operators functioning under licensing or tender-based arrangements are in a different position from entities benefiting from a statutory monopoly. Taking these factors into account, duty-free sales are limited in scope and ancillary to international passenger traffic and do not undermine the structure or effectiveness of the State monopoly.

Furthermore, the current arrangements concerning duty-free sales of alcohol are longstanding and reflect comparable systems across the Nordic countries operating State retail monopolies. In all Nordic jurisdictions, duty-free retail operations are entrusted to private operators on the basis of periodic public tender procedures, typically conducted at intervals of 8–10 years. These

arrangements have not been understood as forming part of the State retail monopoly itself, but rather as a separate and strictly delimited regime linked to international passenger traffic. As such, they have been considered compatible with the structure of State monopolies under the EEA framework and do not constitute a general liberalisation of retail sales outside the monopoly

6. What is the Icelandic Government's view as regards the online stores referred to above where the delivery seems to take place from their warehouse located in Iceland?

a. Does the Icelandic Government believe that this falls under private importation of alcoholic beverages and if so, on what basis?

i. How would the Icelandic Government justify that such an exception from ÁTVR's general State monopoly is compatible with Article 16 EEA?

ii. If not, does the Icelandic Government believe that it has in fact approved retail sale of alcoholic beverages within Iceland by the limited action taken to address such operation?

The exclusive right of ÁTVR to conduct retail sales of alcoholic beverages is established in the Alcohol Act No. 75/1998.

The administration lacks the legal competence to "approve" activities that are prohibited by law. Any change to the legality of such activities falls within the exclusive competence of the legislature.

The Icelandic Government does not consider operations involving domestic warehousing and subsequent domestic delivery to constitute private importation by the consumer. "Importation" refers to the act of bringing goods into a country from abroad across a national border. Private importation therefore inherently requires the individual consumer to act as the importer, purchasing the goods from a foreign supplier and bearing the responsibility and cost of bringing the product across the border into Iceland. A business model where a company imports alcoholic beverages into Iceland, stores them in a domestic warehouse, and subsequently fulfils retail orders for domestic delivery directly from that stock constitutes domestic retail sale, not private importation.

7. Is the Icelandic Government of the view that the system for the sale of alcoholic beverages in Iceland can justify maintaining the State monopoly for the retail sale of alcoholic beverages so that it still reaches its aims to reduce alcohol consumption, combat alcohol abuse and protect public health?

ÁTVR remains the overwhelmingly dominant legal retail channel for alcoholic beverages in Iceland. Legal exceptions are narrow, clearly defined and do not undermine the coherence or effectiveness of the monopoly.

The system pursues legitimate objectives recognised under EEA law, namely reducing alcohol consumption, combating alcohol abuse and protecting public health.

The system is coherent and consistently applied, with controlled availability and centralised retail distribution. Maintaining the State monopoly remains suitable and proportionate for achieving these objectives.

The Government remains at the Authority's disposal for further information, updates or exchange of views.

On behalf of the minister,

Ingibjörg Helga Helgadóttir

Guðmundur Skúli Hartvigsson

ANNEX I: "Legislative comparison of on-site producer sales of alcoholic beverages in four Nordic countries."

The following summary is largely based on the Swedish Government Report En möjlighet till småskalig gårdsförsäljning av alkoholdrycker (SOU 2021:95), which examined the possibility of small-scale farm sales of alcoholic beverages in Sweden, with comparative references to other countries. The overview draws on Chapter 7 ("Internationell utblick" / International Comparison), see pp. 89–94. The summary reflects legislative amendments that took effect in Sweden on 1 June 2025 and in Iceland on 1 July 2022.

Sweden

Farm sales (gårdsförsäljning) are permitted under amendments to the Swedish Alcohol Act (Alkohollag 2010:1622), which entered into force on 1 June 2025, specifically Chapter

5 a (§§ 1–17), as introduced by SFS 2025:299. These provisions allow small-scale, independent producers to sell their own alcoholic beverages directly to consumers at the place of production, subject to municipal authorisation and compliance with statutory requirements concerning production scale (max 75,000 litres of spirits, 400,000 litres of fermented beverages ≤10% ABV, or 200,000 litres of fermented beverages >10% ABV), mandatory knowledge-enhancing visits, and paid educational activities.

Norway

Farm sales (gardsalg) are permitted under the Norwegian Alcohol Act (Lov om omsetning av alkoholholdig drikk m.v., LOV-1989-06-02-27), specifically under section 3-1b, as an extension of a municipal license. This enables producers of certain Class 2 beverages (e.g., cider and fruit wine, falling under customs tariff 22.06 and not fortified with spirits) to sell directly to consumers at the production site. This is subject to strict conditions detailed in section 1-7f, including that the production and sale must be part of the site's overall character, a maximum annual sales volume of 15,000 litres per producer for Class 2 beverages sold on-site, and a requirement that at least one third of the ingredients giving the product its characteristic qualities be self-produced. Iceland

On-site sales by producers (sala á framleiðslustað) are permitted under the Alcohol Act No. 75/1998, Art. 6a, as amended by Act No. 35/2022, allowing producers with an annual production of less than 500,000 litres to sell their own products directly to consumers at the production site. If annual production exceeds 100,000 litres, sales are restricted to beverages with an alcohol content of 12% ABV or less. Licensing is subject to a positive recommendation from the local municipality and compliance with health, fire safety, and planning regulations.

Finland

Retail sales by small breweries (pienpanimoiden vähittäismyynti) are permitted under the Finnish Alcohol Act (Alcohol Act 1102/2017), specifically section 17. This allows independent small-scale breweries to sell certain alcoholic beverages, most notably craft beer (including sahti), with an alcohol content of up to 12 per cent directly to consumers at their production site. These sales are subject to statutory limitations, including a maximum annual production volume of 500,000 litres and requirements concerning the brewery's independence and the location of production.

ANNEX II: Overview of Relevant Case Law.

1. Judgment of the District Court of Reykjanes, 8 April 2026, Case No. S-1780/2025 (dómur Héraðsdóms Reykjaness í máli nr. S-1780/2025).

Unlawful distribution of alcohol against payment.

2. Ruling of the Court of Appeal (Landsréttur), 26 November 2025, Case No. 820/2025 (úrskurður Landsréttar í máli nr. 820/2025).

Ruling confirming the District Court of Reykjanes' decision (in case S-1780/2025) to reject a request for an advisory opinion from the EFTA Court regarding online alcohol sales to consumers.

3. Judgment of the District Court of Reykjaness, 21 December 2022, Case No. S-8/2022 (dómur Héraðsdóms Reykjaness í máli nr. S-8/2022).

Unauthorized possession and distribution of alcohol.

4. Ruling of the District Court of Reykjavik, 10 March 2017, Case No. E-2503/2016 (úrskurður Héraðsdóms Reykjavíkur í máli nr. E-2503/2016).

A challenge against the regulatory framework governing the importation and wholesale of alcohol.

5. Judgment of the District Court of Reykjavik, 26 February 2009, Case No. E-4007/2008 (dómur Héraðsdóms Reykjavíkur í máli nr. E-4007/2008).

Unlawful distribution of alcohol against payment.