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Ministry of the Environment, Energy and Climate  
Skuggasund 1  
101 Reykjavík  
Iceland

**Subject: Request from the Icelandic Government concerning the applicability of Directive 2009/31/EC on the geological storage of CO<sub>2</sub> to the Koldís project**

On 15 September 2022, the Icelandic Government sent a letter to the EFTA Surveillance Authority (“the Authority”) asking for an opinion on whether the Koldís project in Iceland falls under the scope of *Directive 2009/31/EC of 23 April 2009 on the geological storage of carbon dioxide* (“the CCS Directive”), enclosing a memo from Landsvirkjun on the project.<sup>1</sup>

On 1 November 2022,<sup>2</sup> the Authority received a second memo from Landsvirkjun, responding to the questions raised by the Authority’s Internal Market Affairs Directorate (“the Directorate”) by email dated 18 October 2022.<sup>3</sup>

It is to be recalled that, according to the institutional framework set up by both the Agreement on the European Economic Area (“the EEA Agreement”) and the Agreement between the EEA EFTA States on the establishment of a Surveillance Authority and a Court of Justice (“SCA”), and to the functions attributed to the diverse bodies foreseen therein, the competence of the Authority is to monitor the correct implementation and application of EEA law in the EEA EFTA States. It would be for the EFTA Court to provide a final say on the interpretation of EEA law.

Against this background, the Directorate notes that it does not usually provide opinions on the applicability of EEA rules to a specific project upon request of an EEA EFTA State.

Having regard to these limitations and statements, and in the spirit of loyal cooperation with the national administrations, the Directorate wished to provide the Icelandic Government with its considerations with regard to the application of the CCS Directive in Iceland.

The Authority works closely with the European Commission when performing its tasks related to the CCS Directive to ensure homogeneity throughout the European Economic Area. On 10 November 2022, as the Icelandic Government

<sup>1</sup> Documents No 1312768 and 1312766.

<sup>2</sup> Document No 1324845.

<sup>3</sup> Document No 1321638.

has been informed of, the Directorate therefore requested the European Commission's views on the matter to ensure a homogeneous application of the CCS Directive throughout the European Economic Area.

The Directorate and the European Commission have assessed the applicability of the CCS Directive based on the information submitted by Landsvirkjun on the Koldís project. The European Commission shared with the Directorate on 17 February 2023 a note, concluding that the Koldís project falls within the scope of the CCS Directive. The Directorate agrees with this assessment.

The Directorate notes that its views on the matter is without prejudice to any future actions by the Authority.

Please find enclosed the note from the European Commission on the applicability of Directive 2009/31/EC.

Marco Uccelli  
Deputy Director  
Internal market Affairs Directorate

Enclosed: Document No 1353877.

*This document has been electronically authenticated by Marco Uccelli.*