

BlogDUE

*Exploring the Reopening of EU-Iceland Accession Negotiations: the Mackerel Dispute & Other Stories**

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SUMMARY: 1. Introduction: raising the prospect of a new EU-Iceland accession process. – 2. The current relationship between EU and Iceland: the Icelandic participation in the EEA and the failure of the first EU accession negotiations. – 3. The possible reopening: critical issues, potential benefits and feasible solutions. – 4. Concluding remarks.

1. According to a recent survey, 55.3% of Icelanders consider it important that a referendum should be held on the reopening of negotiations for EU membership (Maskína poll, 12-20 June 2024, [full report here](#)).

As is well known, after decades of relative disinterest (and substantial opposition), Iceland finally submitted a formal application to join EU in June 2009 and started negotiations the following year. However, in the wake of the 2013 general elections, that saw the victory of a Eurosceptic coalition, the application was first put on hold and then definitely suspended in March 2015, when the Icelandic Government officially requested that '[Iceland should not be regarded as a candidate country for EU membership](#)'.

In this context, the reported statistic appears particularly significant since it confirms a growing – and reverse - trend over the past few years, which emphasizes the intention to place the decision on the EU accession process directly in the hands of the Icelandic public (see the results of the Maskína poll of [17-22 August 2023](#), which stood at 57%, compared to 47.9% in [December 2022](#); in this sense, H. INDRIÐASON, [Iceland Starting to ponder EU Membership](#), in *Nordic Labour Journal*, 2023).

* The present paper is the result of a two-week research period conducted at the University of Iceland (Háskóli Íslands) as part of the AURORA Project "Exploring EU-Iceland Relations: Partnership Agreements and Recent Prospects for Iceland's EU Accession Reopening". The Author would like to thank Professor Róbert R. Spanó for his precious support.

Moreover, a latest poll shows the ‘yes’ to the EU membership at one of the highest percentages in the last 10 years (45.3 % - [Maskína](#), 16–24 September 2024); and the upcoming parliamentary election, due to be held for the next 30 November, currently see the Pro-European Social Democratic Alliance (*Samfylkingin*) [in the lead](#), thus giving further impetus to the debate on a possible Iceland’s new EU accession.

In view of this, after investigating the current relationship between Iceland and the European Union, the present work aims to focus on the most significant issues that would arise in a potential new phase of negotiations, highlighting both the major challenges in reaching an agreement and the key benefits Iceland would gain from joining the EU.

2. While not part of the European integration project, Iceland has had long-standing and relevant relations with EU. Shortly after joining EFTA (1970), Iceland indeed concluded a [Free Trade Agreement with the EEC \(1972\)](#), projecting its position in the European scenario far beyond mere economic cooperation with non-EU countries. Article 1 of the Agreement stated that its main objective was promoting not only the development of economic relations between the two parties, but also the harmonious expansion of world trade.

A further, and definitely more significant, step towards a closer relationship with EU came with Iceland’s entry into the European Economic Area in 1994 (on the EEA Agreement, see F. ARNESEN, H.H. FREDRIKSEN, H.P. GRAVER, O. MESTAD, C. VEDDER (eds.), *Agreement on the European Economic Area: EEA Agreement. A commentary*, München, 2018; A. LANG, *L’Accordo sullo Spazio economico europeo e la compatibilità con il diritto comunitario*, in *Diritto del commercio internazionale*, 1992, p. 575 et seq.).

As known, the EEA Agreement brought Iceland into the Single Market, enabling it to enjoy the free movement of persons, services, capital and goods, with some exceptions (e.g., the agriculture and fisheries sectors). This resulted in a clear approximation of Icelandic legislation to EU law for a whole series of standards (health, safety and environmental, above all - for example, it participates in the EU Emissions Trading System).

But this is not the only aspect that denotes ties that bind: Iceland signed the Schengen Agreement in 1996 and has implemented it in all respects since 2001, letting EU citizens travel passport-free; it takes part in various EU agencies (for green, digital, research, innovation, etc.) and programmes, such as Horizon 2020, Erasmus+ and Creative Europe; or, still today, it enforces the Dublin system on asylum policy (see Article 4 of the Agreement of 19 January 2001 between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining an application for asylum lodged in a Member State or in Iceland or Norway).

It is therefore evident that, although Iceland is not a Member State of the European Union, a considerable portion of EU legislation is already in effect there (see, in this sense, K. A. ELIASSEN, M. SJØVAAG MARINO, E. BERGMANN, *The Study of the European Union from Outside: European*

Integration Studies in Norway and Iceland 1990-2010, in F. BINDI, K. A. ELIASSEN (eds.), *Analyzing European Union Politics*, Bolonia, 2011, espec. p. 387).

Nonetheless, a close partnership of this kind is still quite different from direct participation in the EU.

Indeed, from one side, Iceland retains a fair degree of autonomy in the exercise of its competences, with all the associated advantages: for example, it is free to pursue its own trade policy, as it is not bound to maintain a common external tariff, unlike what happens in the EU Customs Union; or to follow the EU's Common Commercial Policy (CCP).

It is also true, however, that the “intermediate” solution of participating in the Single Market solely through the EEA deprives Iceland of numerous benefits - support in times of crisis, to name one - and also results, basically, in a situation of “regulation without representation”. As it has been rightly underlined the fact that Iceland cannot have a formal say in the EU decision-making process – which, in any case, it is obliged to implement in the relevant EEA Agreement sectors - means that it ‘receives the rules [...] governing the single European market via email without being able to directly influence [it]’, making the cost of such “incomplete membership” higher than its related profit (H. HILMARSSON, *The Nordic Baltic Region and European Integration: Economic, Political and Security Concerns*, in *Journal of Applied Management and Investments*, Vol. 8, No. 3, 2019, p. 152; by the same author, see also *Should Iceland seek European Union and Euro area membership?*, in *Regional Formation and Development Studies*, Vol. 21, No. 1, 2017, p. 61).

These circumstances, along with many other factors – most notably, the severe financial crisis that broke out in 2008 – had driven the Icelandic government, as mentioned before, to apply for EU membership in 2009 (on the role of such a crisis as a driver for Iceland integration in the EU, see G. AVERY, A. J. K. BAILES, B. THORHALLSSON, *Iceland's Application for European Union Membership*, in *Studia Diplomatica*, Vol. 64, No. 1, 2011, p. 96).

It is no secret that negotiations went on for about four years when a change of government, with a shift towards an anti-European stance, along with some obstacles that came up during the discussions, led Iceland to first temporarily, then permanently, interrupt the accession process (cf. J. S. ELÍNARDÓTTIR, *Iceland's Accession Negotiations*, in *European Union Foreign Affairs Journal*, No. 2, 2014, espec. p. 67 et seq.).

In the following paragraph, the analysis will focus on the unresolved issues that arose during the negotiations and those that might emerge today if talks were to resume. Specifically, the aim is to assess whether and how, a decade after the halt, these issues might be addressed, allowing the parties to reach, eventually, a common draft that satisfies both sides.

3. There was not just one reason, but several ones that led to an abrupt halt and, then, to the final breakdown of the Icelandic accession process: at the time of the suspension of negotiations, out of the 33 chapters to be discussed,

16 were still open and 6 yet to be opened. Nevertheless, the main cause - or, rather, the most symbolic one - to which the failure is traced is certainly the EU legislation governing the Common Fisheries Policy (CFP). For this reason, a new negotiation should necessarily start from the critical issues related to it.

a) *Fisheries, Agriculture and Food Safety*

As is well known, the European Union imposes to its Member States severe limitations on the amount of fish that can be caught annually (so-called “fishing quotas” or “TACs” - Total allowable catches), by reason, among others, of the conservation of marine biological resources under the Common Fisheries Policy, which is an EU exclusive competence (Art. 3, paragraph 1, let. d, TFEU). And, on these same premises, it has adopted several legal acts to protect cetaceans from being hunted, caught or kept in captivity, including, in particular, whales (see Council Decision 82/461/EEC on the conclusion of the Convention on the conservation of migratory species of wild animals; Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora; Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein).

At the very same time, the Icelandic economy is heavily dependent on the fishing industry, which, over the past 15 years, has accounted for between 8 to 12 percent of GDP, rising to 25 percent when indirect effects are taken into account (see, e.g., [the International Monetary Fund Country Report on Iceland No. 18/319](#), November 2018, p. 3); as reported by the Central Bank of Iceland, in 2021, ‘39% of goods exports and roughly 24% of all revenues from goods and services exports came from fisheries’ (see the document *Economy of Iceland*, 2022, p. 16, [available here](#)).

The obvious frictions between the Icelandic approach and the EU regulation peaked in 2011, just before the suspension of the accession process, when Iceland unilaterally decided to increase their mackerel catches, exceeding by 45% the amount recommended by the International Council for the Exploration of the Seas (B. LERUTH, [Resolving Iceland’s mackerel war may be crucial to the country joining the EU](#), in *blogs.lse.ac.uk*, 2012; see also AR. LANG, G. THOMPSON, O. BENNETT, [Iceland: an overview](#), UK House of Commons report, 2012, p. 14). But, even earlier, it had been emphasised how the whale hunting, still practised in Iceland, was in conflict with the aforementioned EU rules (see the European Parliament Resolution, of 7 July 2010, on Iceland’s application for membership of the European Union, [2011/C 351 E/11](#), para. 27). In addition, it should be mentioned that Iceland does not issue catch certificates to foreign vessels, thus restricting free competition and favoring domestic productions.

With regard to the first aspect, it should be noted that Member States might well grant Iceland a special fisheries regime in order to facilitate the “new” accession.

From a legal point of view, this is certainly possible, as the EU Treaties can be compared to a contract where, with the consent of all the parties,

particular exceptions can be granted to one of them. This would not be the first time that Member States recognize, in the Act of accession of a third State or through a Treaty revision, specific derogations from the general regime for the application of EU law (think about the opt-outs of Ireland concerning the Schengen Agreement; of Denmark from the EMU; and of Poland regarding the EU Charter of Fundamental Rights).

From a political point of view, the opt-out should not result in completely giving in to the demands of the Icelandic authorities, that, at the time of the negotiations, called for ‘defining the Icelandic exclusive economic zone as a specific management area where Icelandic authorities continue to be responsible for fisheries management’ (B. LERUTH, *op. cit.*).

Rather, MS should recognise Iceland, by virtue of its special geographical location, higher fishing quotas in order not to weaken the Icelandic economy too much as a result of accession, which would end up weakening the entire EU economy as a consequence.

First of all, this would not be contrary to the safeguarding objectives of the CFP, as Iceland’s fishing industry ranks among the world’s most advanced, with a strong emphasis on the preservation of the marine ecosystems (as provided for a specific [Fisheries Management Act](#)).

Secondly, special economic and/or tax regimes are already granted under the EU Cohesion Policy (Art. 349 TFEU) to the so-called outermost regions (such as Canary Islands or Madeira). As underlined by the European Commission, these regions must receive tailored support as they face ‘specific challenges, such as their extreme remoteness [...], but also have unique assets such as their strategic location, ideal conditions for space activities, and rich biodiversity’ (New report shows how EU policies and funds provide tailored support to the EU’s outermost regions, 3 October 2024, [available here](#)).

A similar discourse could be - and should be - pursued also with regard to the implementation of the Common Agricultural Policy, e.g. in relation to the rural areas of Northern Iceland (such exemptions are already provided for Finnish and Swedish peripheral rural areas); or of Food Safety, Veterinary and Phytosanitary Policy, demonstrating, on the basis of the precautionary principle, that the importation of livestock, raw materials or other products ‘pose a threat to the public or natural habitat of Iceland’ (J. S. ELÍNARDÓTTIR, *op. cit.*, p. 77).

In this sense, the recognition of the special geographical position of Iceland and, with it, of the derogations concerning these matters, would allow the EU, on the other hand, to acquire a strategic outpost in the Arctic (Iceland is a Member of the Arctic Council and it currently assist the EU in securing official observer status in the Arctic Council); and, above all, to bring into the internal market a territory that is rich in natural resources.

With reference to the whale hunting, conversely, it is worth noting that the accession to the EU could serve as the ultimate incentive for the definitive abandonment of this practice. Indeed, while it is true that whaling was still permitted this year, the 2024 one was authorised after the government had announced the final halt in 2022, and the hunting had actually been suspended

in 2023. Thanks to the obligations stemming from EU law, this ban could properly become permanent.

Lastly, as for the issue of fishing permits for foreign vessels, a viable solution could be the Danish model, which allows a catch certificate to be issued to non-Danish investors only if the fishing vessel ‘is effectively administered, controlled and directed from Denmark’ ([Order no. 35 of 13 of January 2023 issued by the Danish Maritime Authority](#), Chapter 12, Section 102), thus imposing the establishment of a genuine economic link with the territory where the fishing takes place. Such a solution would allow foreign operators free access to Icelandic exclusive fishing zones, but still under the control of the Icelandic Fisheries Management System, which could then verify, e.g., that they ‘land and /or process a fixed percentage of their catch in domestic ports or have to contribute by other means to the economic welfare of fisheries-dependent coastal regions’ (M. WOLF, *Iceland’s Integration into the Common Fisheries Policy of the European Union*, Reykjavik University, 2013, p. 44).

Besides, it should be recalled that, until 31 December 2032, [Regulation \(EU\) 2022/2495 on the restrictions to the access to Union waters](#) authorizes MS, within a zone of 100 nautical miles for outermost regions such as Iceland, to restrict other EU vessels’ access to their marine resources (see Recital 4 and Art. 5 of the Regulation).

b) *Natural Resources (espec., energy)*

Precisely the issue of the exploitation of natural resources constituted another major point of the past negotiations.

As reported by a survey conducted during the accession process, the Icelanders ‘were especially concerned that their country would loose control over its natural resources’, such as water and hydro and geothermal energy (S. BJÖRNSDÓTTIR, *Iceland’s Integration into the EU Energy policy*, University of Twente, 2012, p. 4, citing the Gallup Organization, Iceland and the European Union, Analytical Report, March 2011).

Concerning the latter, it is well-known that Iceland boasts some of the world’s highest potential for renewable energy, thanks to its volcanic activity, the abundant geothermal energy reserves and extensive hydropower resources. To give an idea, approximately 85% of Iceland’s total primary energy supply comes from renewable sources (a world record; source: [Government of Iceland website](#)), and, in 2023, 99.2% of electricity was generated by the same (about 70% from hydropower and 29% from geothermal powerplants – International Energy Agency data).

Today, a new accession attempt into the EU wouldn’t raise any significant issue regarding the implementation of the standards imposed by the Energy Policy of the European Union, since, as the Commission recently observed, ‘the country’s energy policy and legislation are closely aligned to the [latter]s’ (European Commission, [Commissioner Simson in Iceland to boost energy cooperation](#), 16 October 2024; see also A. MIKHAYLOV, *Geothermal*

energy development in Iceland, in *International Journal of Energy Economics and Policy*, Vol. 10, No. 4, 2020, p. 32).

From the EU side, indeed, Member States retain full national sovereignty over energy resources and their exclusive exploitation, in accordance with international law (see Art. 194, para. 2, subpara. 2, TFEU).

From the Icelandic one, it should be noted that, in recent years, the Republic has come remarkably closer to the European model, adopting, e.g., the EU Third Energy Package and thus leading to the unbundling of energy production and supply from the operation of transmission and distribution networks (see Alaska Center for Energy and Power, [Insights into the Icelandic Energy Market, October 2023](#); B. BJARNASON, *Iceland and the EEA*, in *regjeringen.no*, February 2024, *passim*).

Nonetheless, a much bigger obstacle would be certainly the energy cross-border exchange.

As recalled in a Joint understanding between the EC and the Icelandic Government on the application of the third energy package towards Iceland (22 March 2019, [available here](#)), the Icelandic energy system ‘is currently an isolated system and it is not connected with an interconnector between Iceland and the EU’s internal energy market’, which is why the EU provisions concerning this matter do not apply to Iceland.

In view of EU membership, however, the situation would most likely change and Member States would probably be more reluctant to recognise opt-outs in this field, especially in the current historical moment.

As known, the *acquis communautaire* in the energy sector requires Member States, among other things, to ensure, in a ‘spirit of solidarity’ (Art. 194(1) TFEU), the security of energy supply in the EU. In order to meet this obligation, Iceland would have to provide itself with infrastructures that enable the cross-border transmission of the energy produced. These facilities come with extremely high construction costs, if one considers that the energy transmission would be underwater, over a distance of about 1,000/1,200 km - e.g., to Ireland). To put into perspective, for a similar project connecting the Icelandic energy system to the UK, it has been calculated that ‘the total estimated project cost would therefore be around 30% of the annual GDP in Iceland’ (the Icelandic GDP was around 20 billion EUR in 2019; T. TRYGGVASON, *Cross border trade in electricity under EU/EEA and WTO law A Case Study: Iceland*, Reykjavik University, 2021, p. 65, [available here](#)).

A solution that could satisfy both parties might be to designate the construction of the energy grid as a Project of Common Interest (PCI), according to Art. 171 TFEU, thus allowing the EU to co-finance for most the realization.

Indeed, in addition to the provisions relating to the aforementioned Cohesion Policy, Art. 170 TFEU establishes the Union ‘shall contribute to the establishment and development of trans-European networks in the areas of [...] energy infrastructures’ and the same Art. 194 TFEU states that EU ‘promotes[s] the interconnection of energy networks’.

It does not seem unreasonable to expect that the MS will be persuaded to consider the realisation of this trans-European network as a PCI, given that the attempt to break free from energy dependency is one of the three EU main priorities recently outlined by the EC President (Opening remarks by President von der Leyen at the joint press conference with President Michel and Hungarian Prime Minister Orbán following the informal meeting of Heads of State or Government of 8 November 2024, [available here](#)). The time, costs, and challenges involved in its construction would be well justified by the opportunity for the EU to have access to an enormous amount of cleanly produced energy.

c) *EMU and Free Movement of Capital*

Certainly, a new negotiation will have to address also the problems associated with Iceland's entry into the Economic and Monetary Union (EMU). As many are aware, the third States are obliged to adopt the euro as their currency after joining the EU, since Art. 119 TFEU et seq. are parts of the EU acquis that must be applied like any other EU law provision, unless exempted through a specific opt-out.

In this regard, it has long been known that Icelanders are very attached to their currency, the króna, which they see as a significant expression of their identity and sovereignty (cf. H. K. HALLGRÍMSDÓTTIR, M. J. CARPENTER, E. BRUNET-JAILLY, M. CONRAD, [Cultural narrative, crisis, and contention in Iceland's bid to join the European Union, 2009–2015](#), in *Frontiers in Political Science*, 2024, p. 8). Likewise, retaining the power to mint their own currency means being able to devalue it - and thus attract more foreign investment - in the event of negative economic cycles (this is particularly important in economies as undiversified as Iceland's).

On the other hand, joining the euro would guarantee more stability for the Icelandic economy, which would avoid both continuous fluctuations in foreign exchange and very high interest rates; but also an higher economic growth, linked to the greater ease and, thus, the natural increase in trade between Iceland and the economies of the other Eurozone countries (on the pros and cons of Icelandic participation in the EMU see, *amplius*, H. HILMARSSON, *Iceland and its participation in European economic integration: advantages and disadvantages of European Union and Euro Area membership*, in VV.AA, *International Finance and Banking Conference FI BA 2018*, (XVIth Edition), Bucharest, p. 15 et seq., [available here](#); by the same author, see also *Connecting in Europe: the different approaches of the Nordic and the Baltic countries to European integration and security*, in A. BOROWICZ, M. DZIEMBAŁA, A. MASŁOŃ-ORACZ, E. LATOSZEK (eds.), *European Union and its Law, Policy, and Economy. Internal and External Dimensions*, Warsaw, 2020, p. 15).

It should also be noted that, amidst the circumstances that necessarily push towards a “yes” to the euro, one key factor is that joining the EU means having to ensure, among the other fundamental freedoms, also the free movement of capital. In other words, Iceland, which has always faced transfer currency

issues, would lose the power to impose controls and restrictions on capital flows, as it did until 2017 to mitigate the effects of the financial crisis that struck from 2008 to 2011, forcing the government to nationalize its three main banks (see A. VITERBO, *Iceland's capital controls and the constraints imposed by the EEA agreement*, in *Capital Markets Law Journal*, Vol. 9, No. 2, 2011, p. 214 et seq.).

It would therefore be unrealistic to imagine Iceland fulfilling such an obligation without relying on the stability ensured by the single currency; at the same time, it seems equally out of question that MS could allow Iceland to retain the króna and grant it an indefinite exemption from implementing the free movement of capital, which is one of the four pillars of the internal market and, consequently, of the very foundation of the European project.

Certainly, the arrangement of a specific transitional period on this point seems undoubtedly necessary. Many scholars have noted in the past that the decision to abandon the króna would not translate, as a matter of course, into the immediate adoption of the euro, as it could take a considerable amount of time for Iceland to meet the Maastricht criteria required for its actual implementation (potentially, no less than 5 years; see, e.g., A. THRALL, *Iceland's Question of Sovereignty and European Union Accession*, Lehigh University, 2011, p. 109).

What should be avoided, however, is the problematic situation that characterises MS like Sweden. Although it has not formally negotiated an opt-out from the single currency, Sweden has never adopted the euro despite being fully compliant with the aforementioned convergence criteria (for an updated overview on this point, see the [EC Convergence Report 2024](#), 26 June 2024, COM/2024/270 final, espec. section 7). Agreeing to this practice would set a dangerous new precedent, especially for the third States due to join next.

d) CSDP

An aspect that was completely overlooked in the past negotiations, but which could take on a central importance in the new ones, is the implementation of the Common Security and Defence Policy (CSDP).

Everyone knows that Iceland is one of the very few countries in the world without its own army (like Vatican, San Marino, etc.), but most notably, that it would be the first in this situation to join the European Union. The Icelanders have never shown much interest in having their own military (cf. A. ÍSLEIFSSON, *Brothers without Arms Explaining Iceland's Participation in European Union CSDP Operations*, Lund University, 2014, p. 47); in the event of an attack, indeed, they rely on the intervention of the US Army, as provided for in the bilateral Defence Agreement concluded in 1951 (for a deeper insight, see G. R. AEGISSON, *The Icelandic European Debate Explaining Icelandic attitudes towards EU membership*, Lund University, 2011, p. 19 et seq.).

At present, this arrangement appears to be entirely compatible with the obligations arising from the policy in question, which is fully intergovernmental in nature and remains predominantly under the control of

the single MS (see, in this sense, A. J. K. BAILES, Ö. Þ. RAFNSSON, *Iceland and the EU's Common Security and Defence Policy: Challenge or Opportunity?*, in *Icelandic Review of Politics & Administration*, Vol. 8, No. 1, 2012, p. 109 et seq.). A reading of the relevant Treaty provisions suggests that there is no obligation for Member States, e.g., to establish their own army in order to contribute with their capabilities to the various operational actions under the framework of the CSDP. In particular, Art. 42(7) TEU points out that commitments and cooperation in the CSDP area 'shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation'.

Nonetheless, things could change in the future, compelling Iceland to reshape its entire defence framework, if developments on the international stage - primarily related to the Russia-Ukraine crisis - were to prompt Member States to move towards a communitarisation of such policy. As has been pointed out, this scenario is still a long way from being realised (cf. F. MUNARI, *La politica di sicurezza e difesa comune nell'Unione: il tempo delle scelte*, in *rivista.eurojus.it*, No. 3, 2024, espec. p. 239); but it doesn't seem unrealistic (in this sense see, among other things, the Speech by EC President von der Leyen at the European Parliament Plenary on the new College of Commissioners and its programme, of 27 November 2024, [available here](#), in which it is highlighted its commitment to adopting an EU White Paper on Defence within the first 100 days of the new Commission's term).

e) *General operational aspects: from the implementation of EU law to the jurisdiction of the Court of Justice*

Iceland's accession to the EU would necessarily require the acceptance of the system of implementation of EU law into national law, as established in the Treaties and in the case-law of the Court of Justice.

This scenario would represent a significant upheaval for Iceland's legal order (...and for some, a major downside in terms of loss of sovereignty). Indeed, although, as mentioned, a large portion of EU law is mandatory through the EEA Agreement, it remains a fact that the mechanism for adaptation imposed by the latter is not automatic, as every EU act has to pass through the approval of the EEA Joint Committee and the Icelandic parliament before they can become applicable (on this, see E. BERGMANN, *Iceland and the EEA, 1994-2010 Europe's Half Way House*, Rapport No. 7, Europautredningen, Oslo, 2011, p. 19, [available here](#); on the relationship between EEA law and EU law, see P. MARIANI, [La partecipazione esterna al mercato interno: ripensare ai modelli di cooperazione economica in Europa con Stati che non intendono aderire al progetto europeo](#), in *rivista.eurojus.it*, No. 4, 2022, espec. p. 80 et seq.).

It goes without saying that such a mechanism would not be feasible once inside the Union. Infact, it is unquestionable that, on this point, no opt-out could be granted to Iceland, as the matter concerns the proper functioning of the EU. Features such as primacy, direct effect, and direct applicability reflect

the very essence of the organisation, as they ensure the correct and uniform application of EU law, and, therefore, are non-negotiable. The same applies, of course, to the authority of the Court of Justice and its judgments; obviously, the Icelandic judges, including the Hæstiréttur Íslands (Supreme Court of Iceland), would be obliged to apply the ECJ preliminary rulings in its entirety and, if necessary, to refer cases to it themselves.

However, it is also worth considering that, from a different perspective, joining the EU would grant Iceland greater influence in the legislative process.

As observed above, Iceland finds itself in a sort of “regulation without representation” scenario, as it is obliged to apply (the binding parts of) EU law through the EEA Agreement, but, being a third country, has no power to formally participate or influence the decision-making process. EU membership, in contrast, would allow Iceland to have officers in all EU institutions, including the Institutional Triangle (EC, EP and Council), and, consequently, to have a say in shaping the EU legislative acts that will apply to it.

4. The present paper has highlighted that, as all accession processes have demonstrated so far, the Icelandic case also presents legal challenges linked to national specificities; challenges which, nonetheless, seem not insurmountable.

In fact, it seems reasonable to assert that the current level of compliance of the Icelandic legal system with that of the Union is, paradoxically, even better than it was a decade ago, despite the halt of the accession process. The adaptation to EU law has continued, and in many areas, even though Iceland has remained cautious so far about reconsidering the reopening of negotiations. This has been clearly evident, to give just a few examples, with the aforementioned liberalisation of the energy market, or with the adoption of a comprehensive anti-discrimination legislation in 2018 (see [Act No 85, of 25 June 2018, on Equal Treatment irrespective of Race and Ethnic Origin](#), which took account of the content of [Directive 2000/43/EC](#) implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; the Act has been further amended in 2022, adding more discrimination factors).

Surely, in the event of a new accession process, the obstacles to be overcome remain, not least because the Icelandic situation is likely characterised by many more unique features than those encountered in the accession processes of other third countries. However, these specificities should not be seen as an obstacle, but rather as an asset to be leveraged within the negotiations; naturally, without, sacrificing the cornerstones of the European project. Actually, Iceland could serve as a testing ground for what many have envisaged as the future of EU enlargement, i.e. the differentiated integration (or, more accurately, a “Europe of concentric circles”; see Report of the Franco-German Working Group on EU Institutional Reform, *Sailing on High Seas: Reforming and Enlarging the EU for the 21st Century*, Paris-Berlin, 8 September 2023, [available here](#)).

Regardless of the legal challenges, it is unlikely that a new accession process will be successfully completed without Iceland's firm commitment to advancing the process and not abandoning it at the first hurdle (cf., regarding the 2009-2013 negotiations, J. WARNEZ, *Bringing Iceland into the fold, or not. An investigation into Iceland's accession negotiations with the European Union*, Copenhagen Business School, 2014, p. 10). It is certain that EU membership carries with it, alongside advantages, also "drawbacks". However, these should not constantly undermine the conviction of wanting to be part of the EU. That is to say that the difficulties that always arise in the context of negotiations should be addressed with the necessary patience and resolution - ingredients that, according to EU officials who participated in the early negotiations, were lacking at the time (see Iceland Chamber of Commerce, Summary of main conclusions - Iceland's Accession Negotiations, [available here](#)).

ABSTRACT (ITA)

Dopo aver analizzato gli attuali rapporti tra Unione europea e Islanda, il presente lavoro intende concentrarsi sulle questioni più rilevanti che potrebbero emergere in un nuovo e futuro negoziato d'adesione, mettendo in evidenza sia i principali ostacoli al raggiungimento di un accordo, sia i benefici che l'Islanda trarrebbe dall'ingresso nell'UE.

ABSTRACT (ENG)

After investigating the current relationship between Iceland and the European Union, the present work aims to focus on the most significant issues that would arise in a potential new phase of negotiations, highlighting both the major challenges in reaching an agreement and the key benefits Iceland would gain from joining the EU.