

Case No: 90318  
Document No: 1449849  
Decision No: 062/24/COL

## EFTA SURVEILLANCE AUTHORITY DECISION

of 24 April 2024

**to bring a matter against Iceland before the EFTA Court in accordance with Article 31(2) of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice due to the failure by Iceland to fulfil its obligations under the Act referred to at point 1 of Annex VII to the Agreement on the European Economic Area (*Directive (EU) 2018/958 of the European Parliament and of the Council of 28 June 2018 on a proportionality test before adoption of new regulation of professions*), as adapted by Protocol 1 to that Agreement, and under Article 7 of the EEA Agreement, by failing to adopt the measures necessary to implement the Act within the time prescribed, or in any event, by failing to inform the EFTA Surveillance Authority thereof.**

### THE EFTA SURVEILLANCE AUTHORITY

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, in particular Article 31(2) thereof,

Whereas:

*Directive (EU) 2018/958 of the European Parliament and of the Council of 28 June 2018 on a proportionality test before adoption of new regulation of professions* (“the Act”) was incorporated into the Agreement on the European Economic Area (“EEA Agreement”) by Decision No 243/2021 of the EEA Joint Committee of 24 September 2021 at point 1c of Annex VII to the Agreement, as adapted to the Agreement by Protocol 1.

It follows from Article 7 of the EEA Agreement and from Article 13 of the Act, that the EFTA States were required to adopt the measures necessary to implement the Act and to notify these to EFTA Surveillance Authority (“the Authority”). The time limit to do this expired on *1 February 2023*.

By letter dated 14 March 2023 (Doc No 1353781), the Authority reminded Iceland of the obligation to notify the measures it had taken to implement the Act.

As the Authority had not received any notification from Iceland setting out the measures which it had adopted to implement the Act, on 22 May 2023 it sent a Letter of Formal Notice to Iceland (Doc No 1369473).

In its Letter of Formal Notice, the Authority concluded that by failing to adopt or, in any event, to inform the Authority of the national measures it had adopted to implement the Act, Iceland had failed to fulfil its obligations under Article 13 of the Act and Article 7 of the Agreement.

The Icelandic Government did not formally reply to the Letter of Formal Notice, but informed the Authority at the package meeting in June 2023 (Doc No 1379175) that it was looking

into how to implement the Directive. It was envisaged to eventually use guidelines to do that, a practice that was doubted to be sufficient for implementation by the representative of the Authority at that meeting.

The Authority issued a Reasoned Opinion on 6 December 2023 (Doc No 1398708), concluding that by failing to adopt the measures necessary to implement the Act, and/or by failing to notify the EFTA Surveillance Authority of the measures it has adopted to implement the Act, Iceland had failed to fulfil its obligations under the Act and under Article 7 of the Agreement.

On 25 January 2024, the Authority received a formal reply to the Reasoned Opinion (Doc No 1432746), stating that unforeseen delays had arisen, but that active preparations were underway for the introduction of a bill of law to be presented to Parliament in the spring session of 2024 that would serve as the primary legal instrument for the implementation of the Act. It was anticipated that the bill would be ready for adoption by May 2024.

Subsequently, the Internal Market Affairs Directorate of the Authority asked the Icelandic Government informally for a state of play on 15 April 2024 (Doc No 1449917). The Icelandic Government replied on the same day (Doc No 1450214), indicating that a regulation would be published in spring 2024, but that the supporting act to that regulation would only be presented to Parliament in autumn 2024.

At the present time, the Authority has not been notified, and does not have any other information to suggest, that Iceland has implemented the Act into its national legal order.

For these reasons, the Authority considers that the matter should be brought before the EFTA Court.

#### HAS ADOPTED THIS DECISION:

1. Proceedings should be commenced before the EFTA Court to seek a declaration that Iceland has failed to fulfil its obligations under the Act referred to at point 1c of Annex VII to the EEA Agreement (*Directive (EU) 2018/958 of the European Parliament and of the Council of 28 June 2018 on a proportionality test before adoption of new regulation of professions*), as adapted by Protocol 1 to the EEA Agreement, and under Article 7 of the EEA Agreement, by failing to adopt the measures necessary to implement the Act within the time prescribed, or in any event, by failing to inform the EFTA Surveillance Authority thereof.
2. The Director of Legal and Executive Affairs is instructed to seize the EFTA Court, liaising with the Internal Market Affairs Directorate and subject to control by the responsible College Member, and to represent the EFTA Surveillance Authority before the EFTA Court.

For the EFTA Surveillance Authority,

Arne Røksund  
President

Stefan Barriga  
Responsible College Member

Árni Páll Árnason  
College Member

Melpo-Menie Joséphidès  
Countersigning as Director,  
Legal and Executive Affairs

*This document has been electronically authenticated by Arne Roeksund, Melpo-Menie Josephides.*