



Press Release 06/03

Judgment of the EFTA Court in

Case E-1/03 EFTA Surveillance Authority v The Republic of Iceland

In a judgment delivered today, the EFTA Court ruled that Icelandic legislation, which imposes on airlines a higher tax to be collected per passenger travelling from Iceland to other EEA States than per passenger travelling on domestic flights, is incompatible with EEA rules on the freedom to provide services, as this freedom is set out in Article 36 EEA and Article 3(1) of Council Regulation (EEC) No 2408/92 on access for Community air carriers to intra-Community air routes, which has been included in point 64a of Annex XIII to the EEA Agreement.

The EFTA Court held that a measure that is liable to prohibit or otherwise impede the provision of services between EEA States as compared to the provision of services purely within one EEA State constitutes a restriction on the freedom to provide services, even in the absence of discrimination based on nationality or place of residence. Drawing on established case law of the Court of Justice of the European Communities, the EFTA Court noted that an air passenger tax will directly and automatically add to the cost of a journey. When the tax levied on intra-EEA flights is more than seven times higher than that levied on domestic flights, the difference constitutes a restriction on the freedom to provide intra-EEA flight services.

The EFTA Court further found that the need to secure access to medical, cultural and commercial infrastructure for the inhabitants of outer regions of Iceland and to prevent migration from rural areas could not justify the differentiated air passenger tax. Public interest goals must be pursued in compliance with the principle of proportionality, and the Icelandic Government did not show that the differentiated air passenger tax is a necessary means to achieve the goals in question.

The full text of the judgment may be found on the EFTA Court web site: www.eftacourt.lu.

The EFTA Court is composed of the Judges Carl Baudenbacher (President), Per Tresselt and Thorgeir Örlygsson.

This press release is not an official document. Please note that the Court may not comment of the case.