

## EFTA COURT

**Action brought on 21 December 2017 by the EFTA Surveillance Authority against Iceland.**

**(Case E-17/17)**

An action against Iceland was brought before the EFTA Court on 21 December 2017 by the EFTA Surveillance Authority, represented by Carsten Zatschler, Catherine Howdle and Ingibjörg Ólöf Vilhjálmssdóttir, acting as Agents of the EFTA Surveillance Authority, 35 Rue Belliard, B-1040 Brussels.

The EFTA Surveillance Authority requests the EFTA Court to:

- 1. Declare that by failing to adopt the measures necessary to implement the Act referred to at point 8 of Annex V to the Agreement on the European Economic Area (*Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers*), as adapted to the Agreement by way of Protocol 1, and in any event by failing to notify the EFTA Surveillance Authority of the measures it has adopted to implement that act, Iceland has failed to fulfil its obligations under that act and under Article 7 of the Agreement.**
- 2. Order Iceland to bear the costs of these proceedings.**

*Legal and factual background and pleas in law adduced in support:*

- On 18 January 2017 ESA delivered a reasoned opinion in which it maintained the conclusion that by failing to take measures to ensure implementation of the Act referred to at point 8 of Annex V to the Agreement on the European Economic Area (*Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers*) and/or to notify the Authority thereof, Iceland had failed to fulfil its obligations under the Act and under Article 7 of the EEA Agreement. Pursuant to the second paragraph of Article 31 SCA, ESA required Iceland to take the measures necessary to comply with the reasoned opinion within two months following the notification; that is, no later than 18 March 2017.
- The Icelandic Government replied to the Authority's reasoned opinion on 13 February 2017. In its reply, the Icelandic Government referred to its reply to the letter of formal notice, and stated that it aimed to submit the

bill implementing the Act into Icelandic law to the Parliament before 1 April 2017.

- The Authority received no further information on implementation until it received a Form 1, dated 30 November 2017. In the Form 1, the Icelandic Government indicated that it had fully implemented the Act into Icelandic law. Although a date for implementation was not indicated, the Icelandic Government attached to the Form 1 a copy of what it stated was an implementing measure dated 30 October 2014: the Icelandic Act No. 105/2014 on the Free Right to Employment and Residence within the European Economic Area (Act No. 105/2014).
- By email of 4 December 2017, ESA wrote to the Icelandic Ministry of Welfare, asking for an explanation of whether, in the light of the replies to the letter of formal notice and reasoned opinion, the notification of Act No. 105/2014 as an implementing measure was a mistake. The Ministry replied by email on 7 December 2017, stating that in its view Act No. 105/2014 fully implements the Directive, and offering as an explanation for the previous line of replies that “it was thought more transparent to have a special clause in [Act No. 105/2014] informing that the Act implements the Directive” and that this would be added by way of the bill proposed in April 2017.
- On 19 December 2017, having undertaken an assessment of whether then notified measures could be said to have implemented the Act, the EFTA Surveillance Authority decided to bring the matter before the Court pursuant to the second paragraph of Article 31 SCA.