



## JUDGMENT OF THE COURT

9 December 2025

*(Failure by an EFTA State to fulfil its obligations – Failure to implement – Directive (EU) 2016/2102 – Accessibility of the websites and mobile applications of public sector bodies)*

In Case E-10/25,

**EFTA Surveillance Authority**, represented by Sigurbjörn Edvardsson, Sigrún Ingibjörg Gísladóttir and Melpo-Menie Joséphidès, acting as Agents,

*applicant,*

v

**Iceland**, represented by Hendrik Daði Jónsson, Einar Gunnar Thoroddsen and Þorsteinn Júlíus Árnason, acting as Agents,

*defendant,*

APPLICATION seeking a declaration that Iceland has failed to fulfil its obligations under the act referred to at point 5oc of Annex XI to the Agreement on the European Economic Area (Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies), 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 COURT,

composed of: Páll Hreinsson, President, Bernd Hammermann (Judge-Rapporteur) and Michael Reiersen, Judges,

Registrar: Ólafur Jóhannes Einarsson,

having regard to the written pleadings of the parties,  
having decided to dispense with the oral procedure,  
gives the following

## JUDGMENT

### I INTRODUCTION

- 1 By an application lodged at the Court’s Registry on 11 June 2025, the EFTA Surveillance Authority (“ESA”) brought an action under the second paragraph of Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“SCA”) seeking a declaration from the Court that Iceland has failed to adopt the measures necessary to make the act referred to at point 50c of Annex XI to the Agreement on the European Economic Area (“EEA” or “the EEA Agreement”) (Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies) (OJ 2016 L 327 p. 1 and Icelandic EEA Supplement 2021 No 34 p. 1) (“the Directive”), as adapted by Protocol 1 to that Agreement, and under Article 7 EEA, by failing to adopt the measures necessary to implement the act within the time prescribed, or in any event, by failing to inform ESA thereof.

### II LEGAL BACKGROUND

- 2 Article 3 EEA reads, in extract:

*The Contracting Parties shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Agreement.*

*They shall abstain from any measure which could jeopardize the attainment of the objectives of this Agreement.*

- 3 Article 7 EEA reads, in extract:

*Acts referred to or contained in the Annexes to this Agreement or in decisions of the EEA Joint Committee shall be binding upon the Contracting Parties and be, or be made, part of their internal legal order as follows:*

...

*(b) an act corresponding to an EEC directive shall leave to the authorities of the Contracting Parties the choice of form and method of implementation.*

4 Article 31 SCA reads:

*If the EFTA Surveillance Authority considers that an EFTA State has failed to fulfil an obligation under the EEA Agreement or of this Agreement, it shall, unless otherwise provided for in this Agreement, deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.*

*If the State concerned does not comply with the opinion within the period laid down by the EFTA Surveillance Authority, the latter may bring the matter before the EFTA Court.*

5 Decision of the EEA Joint Committee No 59/2021 of 5 February 2021 (OJ L 2024/66, 11.1.2024, ELI: <http://data.europa.eu/eli/dec/2024/66/oj> and Icelandic EEA Supplement 2024 No 3, p. 104) (“JCD No 59/2021”) amended Annex XI (Electronic communication, audiovisual services and information society) to the EEA Agreement by adding the Directive as point 5oc of the Annex. Constitutional requirements were indicated by Iceland, Liechtenstein and Norway. The requirements were fulfilled on 1 February 2024 and JCD No 59/2021 entered into force on 1 April 2024.

6 Article 12 of the Directive reads:

*1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 23 September 2018. They shall immediately inform the Commission thereof.*

*When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.*

*2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.*

*3. Member States shall apply those measures as follows:*

*(a) to websites of public sector bodies not published before 23 September 2018: from 23 September 2019;*

*(b) to websites of public sector bodies not covered by point (a): from 23 September 2020;*

*(c) to mobile applications of public sector bodies: from 23 June 2021.*

### III FACTS AND PRE-LITIGATION PROCEDURE

- 7 On 1 April 2024, the time limit to adopt the measures necessary to implement the Directive and to notify these to ESA expired.
- 8 On 12 July 2024, having not received any notification from Iceland setting out the measures which it had adopted to implement the Directive, ESA sent a letter of formal notice to Iceland, concluding that by failing to take the necessary measures to make the Directive part of its internal legal order, and/or by failing to notify these to ESA, Iceland had failed to fulfil its obligations under the Directive and Article 7 EEA. Iceland was invited to submit its observations within two months i.e. by 12 September 2024.
- 9 On 10 October 2024, Iceland replied to the letter of formal notice, stating that it had not yet taken the necessary measures to implement the Directive. Iceland stated that legislative measures necessary to implement the Directive were underway and that a Bill was expected to be presented to Parliament in November 2024.
- 10 On 13 November 2024, having considered Iceland's response, ESA delivered its reasoned opinion in which it maintained the conclusion set out in its letter of formal notice. Iceland was given two months in which to take the measures necessary to comply with the reasoned opinion, i.e. no later than 13 January 2025.
- 11 Iceland did not reply to the reasoned opinion.
- 12 On 11 June 2025, ESA decided, by way of College Decision 082/25/COL, to bring the matter before the Court pursuant to Article 31 SCA.

### IV PROCEDURE AND FORM OF ORDER SOUGHT

- 13 On 11 June 2025, ESA lodged the present application at the Court's Registry, which was registered at the Court on the same date. ESA requests the Court to:
  1. *declare that Iceland has failed to fulfil its obligations under the Act referred to at point 5oc of Annex XI to the Agreement on the European Economic Area (Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies), 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, and*
  2. *order Iceland to bear the costs of these proceedings.*
- 14 In its application, ESA states that it has not been notified and does not have any other information to suggest that Iceland has implemented the Directive into its national legal order.

- 15 On 13 August 2025, Iceland submitted its defence, which was registered at the Court on the same date. Iceland submits that the facts of the case, as brought forward in the application, are correct and undisputed. Iceland does not dispute the declaration sought by ESA in its application.
- 16 A deadline of 17 September 2025 was set for the reply. By way of a letter of 27 August 2025, registered at the Court on the same date, ESA observed that Iceland had not contested the declaration sought. Consequently, ESA waived its right of reply pursuant to Article 108 of the Rules of Procedure (“RoP”). Further, ESA stated that it consented to the Court dispensing with the oral procedure should it wish to do so in the present case.
- 17 On 28 August 2025, Iceland consented to the Court dispensing with the oral hearing pursuant to Article 70 RoP.
- 18 On 25 September 2025, the deadline for intervention expired, pursuant to Article 113(1) RoP. No applications to intervene were received.
- 19 On 20 October 2025, the deadline for submitting written observations expired. No written observations were received.
- 20 After having received the express consent of the parties, the Court, acting on a report from the Judge-Rapporteur, decided, pursuant to Article 70 RoP, to dispense with the oral procedure.

## V FINDINGS OF THE COURT

- 21 Article 3 EEA imposes upon the EFTA States the general obligation to take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of the EEA Agreement (see the judgment of 11 November 2025 in *ESA v Iceland*, E-4/25, paragraph 19 and case law cited).
- 22 Article 7(b) EEA provides that an act corresponding to an EU directive, referred to in the Annexes to the EEA Agreement or a decision of the EEA Joint Committee, shall be made part of the internal legal order of an EEA State in accordance with that EEA State’s choice of form and method of implementation. An obligation to implement the Directive also follows from Article 12 thereof.
- 23 The Court notes that the lack of direct legal effect of acts referred to in decisions by the EEA Joint Committee makes timely implementation crucial for the proper functioning of the EEA Agreement. The EFTA States find themselves under an obligation of result in that regard (see the judgment in *ESA v Iceland*, E-4/25, cited above, paragraph 21 and case law cited).
- 24 JCD No 59/2021 entered into force on 1 April 2024. The time limit for EFTA States to adopt the measures necessary to implement the Directive expired on the same date.

- 25 The question of whether an EFTA State has failed to fulfil its obligations must be determined by reference to the situation as it stood at the end of the period laid down in the reasoned opinion (see the judgment in *ESA v Iceland*, E-4/25, cited above, paragraph 23 and case law cited). In this case, the relevant date is 13 January 2025.
- 26 It is undisputed that Iceland had failed to fulfil its obligations under the Directive and Article 7 EEA by the expiry of the time limit set in the reasoned opinion.
- 27 In light of the above, it must be held that Iceland has failed to fulfil its obligations under the Directive and under Article 7 EEA by failing to adopt the measures necessary to implement the Directive within the time prescribed.

## **VI COSTS**

- 28 Under Article 121(1) RoP, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since ESA has requested that Iceland be ordered to pay the costs, the latter has been unsuccessful, and none of the exceptions in Article 121(2) RoP apply, Iceland must be ordered to pay the costs of the proceedings.

On those grounds,

THE COURT

hereby:

- 1. Declares that Iceland has failed to fulfil its obligations under the act referred to at point 50c of Annex XI to the EEA Agreement (Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies), 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.**
- 2. Orders Iceland to bear the costs of the proceedings.**

Páll Hreinsson

Bernd Hammermann

Michael Reiertsen

Delivered in open court in Luxembourg on 9 December 2025.

Ólafur Jóhannes Einarsson  
Registrar

Páll Hreinsson  
President