



**ORDER OF THE PRESIDENT**

30 September 2014

*(Accelerated Procedure)*

In Case E-18/14,

REQUEST to the Court under Article 34 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice by Héraðsdómur Reykjavíkur (Reykjavík District Court), in the case of

**Wow air ehf.**

and

**Samkeppniseftirlitið (Icelandic Competition Authority),**

**Isavia ohf.,**

**and Icelandair ehf.**

concerning the interpretation of Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports, as adapted to the EEA Agreement by Decision No 7/94 of 28 June 1994 of the EEA Joint Committee (OJ 1994 L 160, p. 1 and EEA Supplement 1994 No 17, p. 1),

THE PRESIDENT

makes the following

## Order

1. By letter of 4 September 2014, received on 10 September 2014, Reykjavík District Court requested an Advisory Opinion in a case pending before it between Wow air ehf. and Samkeppniseftirlitið (Icelandic Competition Authority), Isavia ohf. and Icelandair ehf. The case before the national court concerns the interpretation of Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports, as adapted to the EEA Agreement by Decision No 7/94 of 28 June 1994 of the EEA Joint Committee (OJ 1994 L 160, p. 1 and EEA Supplement 1994 No 17, p. 1) in the allocation of landing and take-off slots at Keflavík International Airport for the year 2014.
2. The plaintiff claims that competition is distorted at Keflavík International Airport, because the most sought-after slots are allocated to Icelandair. In November 2013, the Icelandic Competition Authority decided that the allocation procedure had a detrimental impact on competition and instructed Isavia to provide certain slots to the plaintiff for the summer schedule of 2014. In February 2014, on appeal from Isavia, the Competition Appeals Board annulled the decision.
3. In March 2014, the plaintiff brought an action against the defendants before Reykjavík District Court. The District Court granted an accelerated procedure under national rules. The plaintiff has sought the annulment of the Appeals Board's decision. In May 2014 the District Court dismissed the plaintiff's action. However, in June 2014 the Supreme Court of Iceland quashed this decision and the case was resumed. The defendants asked the District Court to seek an advisory opinion from the Court. This request was rejected in July 2014. In August 2014, on appeal from Icelandair and Isavia, the Supreme Court of Iceland decided that certain questions of interpretation were to be addressed to the Court. In essence, the questions seek to clarify requirements of EEA law with regard to the independence of a coordinator in charge of allocating slots, procedures for complaints on slot allocations, and the relationship between the airport operator and the coordinator.
4. The request for an Advisory Opinion was registered at the Court on 4 September 2014. On 22 September 2014, Reykjavík District Court submitted a revised request and, making reference to Article 97a of the Rules of Procedure ("RoP"), asked the Court to apply an expedited procedure to this request.
5. The national court, in its revised request, notes that the case concerns the allocation of slots at Keflavík International Airport for the year 2014. During the national proceedings, the plaintiff declared that were it to be allocated the slots in question before the summer of 2014 or before the end of the summer, it would make use of them. The plaintiff in the national proceedings also considers that the allocation would confer upon it a right according to precedent in connection with subsequent slot allocations. The proceedings in the Reykjavík District Court are being accelerated under Chapter XIX of the Icelandic Act on Civil Procedure No. 91/1991. With regard to these considerations, the referring court states that it must be assumed that the swift resolution of this case is of particular

importance to the plaintiff. Moreover, a swift resolution to this case would also be in the general interest of consumers and competition.

6. Article 97a(1) RoP provides that at the request of the national court, the President may exceptionally decide, on a proposal from the Judge Rapporteur, to apply an accelerated procedure derogating from the provisions of these Rules to a reference for an advisory opinion, where the circumstances referred to establish that a ruling on the question put to the Court is a matter of exceptional urgency. In that event, the President may immediately fix the date for the hearing, which shall be notified to the parties in the main proceedings and to the other persons referred to in Article 20 of the Statute when the decision making the reference is served.
7. Having heard the proposal of the Judge-Rapporteur, the President, pursuant to Article 97a(1) RoP, has decided to apply an accelerated procedure, on the basis that the circumstances referred establish that a ruling on the questions referred is a matter of exceptional urgency, in particular because of the economic sensitivity of the present case. As a matter of principle, the spirit of cooperation between the Court and the national court speaks in favour of granting the request. In the case at hand, however, the plaintiff's contention that if it were allocated the slots in question before the end of the summer of 2014, it would make use of them is obviously obsolete given that the summer of 2014 is over. Nevertheless, the potential effects on slot allocations in the near future are such as to constitute a matter of exceptional urgency. To guarantee fair and effective competition is one of the most important goals of the EEA Agreement. Effective competition benefits both consumers and competitors and contributes to the common good. In the case at hand, Iceland's special geographic situation must be taken into account with Keflavík essentially being the only international airport in the country. The President also notes that the proceedings before the national court are subject to an accelerated procedure.
8. The President takes cognisance that the dispute regarding the allocation of slots for 2014 has been pending in Iceland since November 2013. Reykjavík District Court was seised in March 2014, and the request for an advisory opinion was registered at the Court on 4 September 2014. These facts do not, however, speak against the application of an accelerated procedure.
9. On that basis, and pursuant to Article 97a(1) RoP, the date for the hearing is fixed for 27 October 2014.
10. The parties in the main proceedings, and those persons referred to in Article 20 of the Statute may lodge statements of case or written observations by 17 October 2014. Those parties and other interested persons are requested to restrict the matters addressed in their statement of case or their written observations to the essential points of law raised by the questions referred by Reykjavík District Court.

On those grounds,

THE PRESIDENT

hereby orders:

- 1. An accelerated procedure derogating from the provisions of the Rules of Procedure to a reference for an advisory opinion is applied. The date for the hearing is fixed for 27 October 2014.**
- 2. The parties in the main proceedings, and those persons referred to in Article 20 of the Statute may lodge statements of case or written observations by 17 October 2014.**
- 3. The parties and other interested persons are requested to restrict the matters addressed in their statement of case or their written observations to the essential points of law raised by the questions referred by Reykjavík District Court.**

Gunnar Selvik  
Registrar

Carl Baudenbacher  
President