

EFTA COURT

Action brought on 1 February 2017 by the EFTA Surveillance Authority against Iceland

(Case E-2/17)

An action against Iceland was brought before the EFTA Court on 1 February 2017 by the EFTA Surveillance Authority, represented by Carsten Zatschler and Maria Moustakali, acting as Agents of the EFTA Surveillance Authority, 35 Rue Belliard, B-1040 Brussels.

The EFTA Surveillance Authority requests the EFTA Court to declare that:

- 1. By maintaining in force (i) an authorisation system for the import of raw eggs and raw egg products such as the one laid down in Article 10 of Act No 25/1993 and Articles 3 (e) and 4 of Regulation (IS) No 448/2012; (ii) an authorisation system for the import of unpasteurised milk and dairy products processed from unpasteurised milk and additional requirements, such as laid down in Article 10 of Act No 25/1993 and Article 3 (f), 4 and 5 of Regulation (IS) No 448/2012, and a prohibition of the marketing of imported dairy products processed from unpasteurised milk, such as laid down in Article 7a of Regulation (IS) No 104/2010; and (iii) an administrative practice of requiring importers to make a declaration and obtain an approval for the import of treated egg and dairy products, such as the one established in the context of the application of Regulation (IS) No 448/2012, Iceland has failed to fulfil its obligations arising from the Act referred to at Point 1.1.1 of Chapter I of Annex I to the EEA Agreement, *Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market* as amended and as adapted to the EEA Agreement by Protocol 1 thereto and by the sectoral adaptations in Annex I thereto, and in particular Article 5 of that directive.**
- 2. Iceland bears the costs of the proceedings.**

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

- The EFTA Surveillance Authority (ESA) claims that Iceland has breached its obligations under Directive 89/662/EEC by (i) maintaining in force an authorisation system for the import of raw eggs and raw egg products; (ii) maintaining in force an authorisation system for the import

of unpasteurised milk and dairy products processed from unpasteurised milk and additional requirements and a prohibition of the marketing of imported dairy products processed from unpasteurised milk; and (iii) maintaining in force an administrative practice of requiring importers to make a declaration and obtain an approval for the import of treated egg and dairy products.

- ESA submits that the rules concerning the intra-EEA trade of products of animal origin and veterinary checks are harmonised at EEA level. Council Directive 89/662/EEC regulates veterinary checks in intra-EEA trade of products of animal origin. Its main objective is to eliminate veterinary checks at the EEA's internal borders while reinforcing the checks carried out at the point of origin. The competent authorities of the EEA State of destination may only check, by means of non-discriminatory spot-checks, compliance with the relevant EEA legislation.
- ESA submits that by maintaining in force the current measures, Iceland imposes additional requirements, which are not allowed by the harmonised framework of veterinary checks.
- According the ESA, the EFTA Court, in its judgment in Case E-17/15 *Ferskar kjötvörur ehf. v the Icelandic State* concerning the restrictions on the importation of raw meat into Iceland, has already recognised the noncompliance of such requirements with EEA law. Similar restrictions concerning egg- and dairy products are laid down in the Icelandic legislation in question.