# JUDGMENT OF THE COURT

10 November 2026

(*Failure by an EFTA State to fulfil its obligations – Failure to implement – Regulation (EU) 2023/444 – Electronic communication, audiovisual services and information society – Effective access to emergency services through emergency communications to the single European emergency number '112'*)

In Case E-7/26,

**EFTA Surveillance Authority**, represented by Sigurbjörn Bernharð Edvardsson, Hildur Hjörvar and Melpo-Menie Joséphidès, acting as Agents,

*applicant*,

**v**

**Iceland**, represented by Davíð Örn Sveinbjörnsson and Skúli Þór Gunnsteinsson, acting as Agents,

*defendant*,

APPLICATION seeking a declaration that Iceland has failed to adopt the measures necessary to make the act referred to at point 5czsd of Annex XI to the Agreement on the European Economic Area (Commission Delegated Regulation (EU) 2023/444 of 16 December 2022 supplementing Directive (EU) 2018/1972 of the European Parliament and of the Council with measures to ensure effective access to emergency services through emergency communications to the single European emergency number '112'), as adapted by Protocol 1 to the Agreement, part of its internal legal order,

THE COURT,

composed of: Páll Hreinsson, President, Bernd Hammermann (Judge-Rapporteur) and Michael Reiertsen, 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 9 April 2026, 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 5czsd of Annex XI to the Agreement on the European Economic Area ('EEA' or 'EEA Agreement') (Commission Delegated Regulation (EU) 2023/444 of 16 December 2022 supplementing Directive (EU) 2018/1972 of the European Parliament and of the Council with measures to ensure effective access to emergency services through emergency communications to the single European emergency number '112') (OJ 2023 L 65, p. 1, as corrected by OJ 2023 L 68, p. 182, and Icelandic EEA Supplement 2024 No 34, p. 159) ('the Regulation'), as adapted by Protocol 1 to the Agreement, part of its internal legal order.

## 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(a) EEA reads:

> *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:*
>
> *(a) an act corresponding to an EEC regulation shall as such be made part of the internal legal order of the Contracting Parties;*

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 33/2024 of 2 February 2024 (OJ L, 2024/1525, 27.6.2024, ELI: https://eur-lex.europa.eu/eli/dec/2024/1525/oj, and Icelandic EEA Supplement 2024 No 51, p. 58) ('JCD No 33/2024') amended Annex XI (Electronic communication, audiovisual services and information society) to the EEA Agreement, by adding the Regulation as point 5czsd of the Annex. No constitutional requirements were indicated, and JCD No 33/2024 entered into force on 1 February 2025.

## III FACTS AND PRE-LITIGATION PROCEDURE

6 On 1 February 2025, the time limit to adopt the measures necessary to make the Regulation part of Iceland's internal legal order and to notify these measures to ESA expired.

7 On 15 May 2025, ESA sent a letter of formal notice to Iceland, concluding that, as Iceland had failed to take the necessary measures to make the Regulation part of Iceland's legal order, it had failed to fulfil its obligations under Article 7 EEA. Iceland was invited to submit its observations within two months.

8 Iceland did not reply to the letter of formal notice.

9 On 17 September 2025, considering the absence of a response from Iceland, ESA delivered a 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 17 November 2025.

10 Iceland did not reply to the reasoned opinion.

11 On 18 February 2026, ESA contacted Iceland to inquire about the status of implementation of the Regulation.

12 On 19 February 2026, Iceland replied to ESA, confirming that the Regulation had not yet been implemented but indicating that a bill enabling its implementation had been submitted for parliamentary procedure.

13 On the same day, ESA requested clarification on the expected timeframe for the bill's adoption.

14 On 20 February 2026, Iceland stated that it anticipated adoption during the current parliamentary session, although this was unlikely to occur before April or May 2026.

15 On 8 April 2026, ESA decided, by way of College Decision 080/26/COL, to bring the matter before the Court pursuant to Article 31 SCA.

## IV PROCEDURE AND FORM OF ORDER SOUGHT

16 On 9 April 2026, 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 Article 7 of the EEA Agreement by failing to make the Act referred to at point 5czsd of Annex XI to the EEA Agreement (Commission Delegated Regulation (EU) 2023/444 of 16 December 2022 supplementing Directive (EU) 2018/1972 of the European Parliament and of the Council with measures to ensure effective access to emergency services through emergency communications to the single European emergency number '112'), as adapted by Protocol 1 to the EEA Agreement, part of its internal legal order, and*
>
> *2. order Iceland to bear the costs of these proceedings.*

17 On 10 June 2026, 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.

18 A deadline of 10 July 2026 was set for the reply. By way of a letter of 7 July 2026, 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.

19 On 2 July 2026, the deadline for intervention expired, pursuant to Article 113(1) RoP. No applications to intervene were received.

20 On 17 July 2026, Iceland consented to the Court dispensing with the oral hearing pursuant to Article 70 RoP.

21 On 12 August 2026, the deadline for submitting written observations expired. No written observations were received.

22 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 part of the procedure.

## V FINDINGS OF THE COURT

23 Article 3 EEA imposes upon the EEA 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.

24 Article 7(a) EEA provides that an act corresponding to an EU regulation, referred to in the Annexes to the EEA Agreement or a decision of the EEA Joint Committee, shall as such be made part of the internal legal order of an EEA State.

25 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 to implement regulations as such (see the judgment of 3 July 2026 in *ESA* v *Iceland*, E-23/25, paragraph 22 and case-law cited).

26 JCD No 33/2024 entered into force on 1 February 2025. The time limit for EFTA States to adopt the measures necessary to implement the Regulation expired on the same date.

27 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-23/25, cited above, paragraph 24 and case-law cited). In this case, the relevant date is 17 November 2025.

28 It is undisputed that Iceland had failed to fulfil its obligations under Article 7 EEA by the time limit set out in the reasoned opinion.

29 In light of the above, it must be held that Iceland has failed to fulfil its obligations under Article 7 EEA by failing to make the Regulation, as adapted by Protocol 1 to the EEA Agreement, part of its internal legal order.

## VI COSTS

30 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 Article 7 of the EEA Agreement by failing to make the act referred to at point 5czsd of Annex XI to the EEA Agreement (Commission Delegated Regulation (EU) 2023/444 of 16 December 2022 supplementing Directive (EU) 2018/1972 of the European Parliament and of the Council with measures to ensure effective access to emergency services through emergency communications to the single European emergency number '112'), as adapted by Protocol 1 to the Agreement, part of its internal legal order.**

2. **Orders Iceland to bear the costs of the proceedings.**

Páll Hreinsson Bernd Hammermann Michael Reiertsen

Delivered in open court in Luxembourg on 10 November 2026.

Ólafur Jóhannes Einarsson
Registrar

Páll Hreinsson
President