JUDGMENT OF THE COURT

10 November 2026

(*Failure by an EFTA State to fulfil its obligations – Failure to implement – Regulation (EU) 2019/1010 – Environment – Alignment of reporting obligations in environmental legislation*)

In Case E-2/26,

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

applicant,

v

Iceland, represented by Hendrik Daði Jónsson and Svava Pétursdóttir, 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 7 of Chapter XIII and point 9c of Chapter XVII of Annex II to the Agreement on the European Economic Area, as well as points 1h, 1i, 1j, 32 and 32g of Annex XX to the EEA Agreement (Regulation (EU) 2019/1010 of the European Parliament and of the Council of 5 June 2019 on the alignment of reporting obligations in the field of legislation related to the environment, and amending Regulations (EC) No 166/2006 and (EU) No 995/2010 of the European Parliament and of the Council, Directives 2002/49/EC, 2004/35/EC, 2007/2/EC, 2009/147/EC and 2010/63/EU of the European Parliament and of the Council, Council Regulations (EC) No 338/97 and (EC) No 2173/2005, and Council Directive 86/278/EEC), 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 17 March 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 7 of Chapter XIII and point 9c of Chapter XVII of Annex II to the Agreement on the European Economic Area ('EEA' or 'the EEA Agreement'), as well as points 1h, 1i, 1j, 32 and 32g of Annex XX to the EEA Agreement (Regulation (EU) 2019/1010 of the European Parliament and of the Council of 5 June 2019 on the alignment of reporting obligations in the field of legislation related to the environment, and amending Regulations (EC) No 166/2006 and (EU) No 995/2010 of the European Parliament and of the Council, Directives 2002/49/EC, 2004/35/EC, 2007/2/EC, 2009/147/EC and 2010/63/EU of the European Parliament and of the Council, Council Regulations (EC) No 338/97 and (EC) No 2173/2005, and Council Directive 86/278/EEC) (OJ 2019 L 170, p. 115; and Icelandic EEA Supplement 2025 No 10, p. 1045) ('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 300/2024 of 6 December 2024 (OJ L, 2025/565, 24.4.2025, ELI: http://data.europa.eu/eli/dec/2025/565/oj, and Icelandic EEA Supplement 2025 No 25, p. 81) ('JCD No 300/2024') amended Annex II (Technical regulations, standards, testing and certification) to the EEA Agreement by adding the Regulation in point 7 of Chapter XIII and point 9c of Chapter XVII, as well as Annex XX (Environment) to the EEA Agreement by adding the Regulation in points 1h, 1i, 1j, 32 and 32g. No constitutional requirements were indicated, and JCD No 300/2024 entered into force on 7 December 2024.

III FACTS AND PRE-LITIGATION PROCEDURE

6 On 7 December 2024, 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 28 March 2025, having not received notification from Iceland setting out the measures which it had adopted to make the Regulation part of its internal legal order, ESA sent a letter of formal notice to Iceland in which it concluded 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 On 10 June 2025, Iceland replied to the letter of formal notice, stating that it had not yet taken the necessary measures to implement the Regulation. Iceland stated that work on the implementation of the Regulation was underway, and that adoption of the necessary national regulations was expected by September 2025.

9 On 10 September 2025, 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 10 November 2025.

10 Iceland did not reply to the reasoned opinion.

11 On 11 November 2025, after the time limit to comply with the reasoned opinion had expired, Iceland sent a Form 1 to ESA, notifying it that Articles 1 and 2 of the Regulation had been made part of the internal legal order.

12 On 1 December 2025, Iceland sent a second Form 1 to ESA, notifying it that Articles 4 and 8 of the Regulation had been made part of its internal legal order. In the second Form 1, Iceland acknowledged that implementation of Article 6 of the Regulation was outstanding and indicated that a timeline for full implementation was not available.

13 On 11 March 2026, ESA decided, by way of College Decision 055/26/COL, to bring the matter before the Court pursuant to Article 31 SCA.

IV PROCEDURE AND FORM OF ORDER SOUGHT

14 On 17 March 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 7 of Chapter XIII and point 9c of Chapter XVII of Annex II to the EEA Agreement, as well as points 1h, 1i, 1j, 32 and 32g of Annex XX to the EEA Agreement (Regulation (EU) 2019/1010 of the European Parliament and of the Council of 5 June 2019 on the alignment of reporting obligations in the field of legislation related to the environment, and amending Regulations (EC) No 166/2006 and (EU) No 995/2010 of the European Parliament and of the Council, Directives 2002/49/EC, 2004/35/EC, 2007/2/EC, 2009/147/EC and 2010/63/EU of the European Parliament and of the Council, Council Regulations (EC) No 338/97 and (EC) No 2173/2005, and Council Directive 86/278/EEC), 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.*

15 On 19 May 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.

16 On 11 June 2026, the deadline for intervention expired, pursuant to Article 113(1) of the Rules of Procedure ('RoP'). No applications to intervene were received.

17 A deadline of 17 June 2026 was set for the reply. By way of a letter of 16 June 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 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.

18 On 20 July 2026, the deadline for submitting written observations expired. No written observations were received.

19 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

20 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.

21 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.

22 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).

23 JCD No 300/2024 entered into force on 7 December 2024. The time limit for EFTA States to adopt the measures necessary to implement the Regulation expired on the same date.

24 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 10 November 2025.

25 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.

26 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

27 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 7 of Chapter XIII and point 9c of Chapter XVII of Annex II to the EEA Agreement, as well as points 1h, 1i, 1j, 32 and 32g of Annex XX to the EEA Agreement (Regulation (EU) 2019/1010 of the European Parliament and of the Council of 5 June 2019 on the alignment of reporting obligations in the field of legislation related to the environment, and amending Regulations (EC) No 166/2006 and (EU) No 995/2010 of the European Parliament and of the Council, Directives 2002/49/EC, 2004/35/EC, 2007/2/EC, 2009/147/EC and 2010/63/EU of the European Parliament and of the Council, Council Regulations (EC) No 338/97 and (EC) No 2173/2005, and Council Directive 86/278/EEC), 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