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Judgment in Joined Cases E-2/17 and E-3/17 *EFTA Surveillance Authority v Iceland*

ICELAND'S AUTHORISATION SYSTEM FOR THE IMPORT OF RAW AND PROCESSED MEAT, EGG AND MILK IS IN BREACH OF EEA LAW

In a judgment delivered today, the Court decided on the compatibility with EEA law of an Icelandic authorisation system for the import of raw and processed meat, egg and milk.

The EFTA Surveillance Authority (“ESA”) sought a declaration that Iceland had breached Article 5 of 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 (“the Directive”), by maintaining in force (i) an authorisation system for the import of fresh meat and meat products; (ii) an authorisation system for the import of raw eggs and raw egg products; (iii) an authorisation system for the import of unpasteurised milk and dairy products processed from unpasteurised milk, and additional requirements concerning certain cheeses, and a prohibition of the marketing of imported dairy products processed from unpasteurised milk; and (iv) an administrative practice requiring importers to make a declaration and obtain an approval for the import of treated egg and dairy products. Iceland contested ESA’s pleas.

The Court noted that the emphasis of the Directive is to ensure that veterinary checks are carried out at the place of dispatch only. Pursuant to Article 5 of the Directive, veterinary checks in the EEA State of destination may be carried out only as non-discriminatory spot-checks at the place of destination, or during transit, when that EEA State has information leading it to suspect an infringement. The Directive has thereby exhaustively harmonised the veterinary checks that may take place in the State of destination. Maintaining or adopting national measures other than those expressly provided for in the Directive is therefore incompatible with the Directive.

As for the first three pleas, the Court observed that Icelandic law prohibits the import of raw and processed meat, egg and milk. However, the import may be permitted on certain conditions. The Court found that this authorisation system entailed veterinary checks within the meaning of the Directive. It was undisputed that the authorisation system applied systematically to every consignment of the products mentioned. The Court therefore found that the authorisation system was incompatible with Article 5 of the Directive. However, the marketing prohibition mentioned in ESA’s third plea could not be characterised as a veterinary check within the meaning of the Directive. This part of the application was therefore dismissed.

As for the fourth plea, the Court observed that, according to Iceland’s own submissions, Iceland has an administrative practice of requiring importers of treated egg and dairy products to submit data to the relevant national authority proving that said products have been treated (pasteurised) in accordance with national legislation. The Court held that such practice amounts to a veterinary check going beyond the checks allowed under Article 5 of the Directive.

The full text of the judgment may be found on the internet at: www.eftacourt.int.

This press release is an unofficial document and is not binding upon the Court.