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Brussels, 22 June 2010
Case No: 67088
Event No: 561449

EFTA SURVEILLANCE
AUTHORITY

Icelandic Mission to the EU
Rond-Point Schuman 11
1040 Brussels

Dear Sir/Madam,

Subject: Authorisation of Iceland to grant exceptions from Regulation No 561/2006 on driving time and rest periods in road transport

Reference is made to a letter from Iceland dated 5 November 2009 (SAM08040021619), where Iceland requested certain exceptions from the Act referred to at point 24e of Chapter II of Annex XIII to the Agreement of the European Economic Area (*Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85*). Furthermore, reference is made to a letter dated 19 May 2010 (SAM10030011312) and an e-mail dated 27 May 2010, through which Iceland modified the scope of the requested exceptions.

Iceland requested authorisation to grant an exception from Article 6(1) of the Act, to be able to prolong the daily driving time from 9 and 10 hours up to 11 hours four days a week, when transporting perishable foodstuffs from Neskaupsstaður to Reykjavík and back, from Egilsstaðir to Reykjavík and back, and from Ísafjörður to Reykjavík and back. Iceland has also requested authorisation to grant an exception from Article 7(1), as to allow driving time to be extended for up to five hours without a break, when driving between Reykjavík and Freysnes and between Freysnes and Egilsstaðir. In Iceland's letter dated 19 May 2010, it was requested that the exceptions should apply from 30 October 2010 until 15 April 2011.

On 21 June 2010, the Authority adopted Collegde Decision No 255/10/COL, where it was decided to authorise Iceland to grant the requested exceptions:

"1. Pursuant to Article 14(1) of the Act referred to at point 24e in Chapter II of Annex XIII to the Agreement of the European Economic Area (Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85), as adapted by the EEA Agreement by Protocol 1 thereto, Iceland is authorised to grant an exception from the provisions of Article 6(1) of the Act for vehicles carrying fresh and perishable foodstuffs from Ísafjörður to Reykjavík and back, from Neskaupstaður to Reykjavík and back, and from Egilsstaðir to Reykjavík and back. The daily driving time as laid down in Article 6(1) may be extended to maximum 11 hours not more than four days a week. Other provisions of the Act shall be complied with, including Articles 6(2) and 6(3).

2. Pursuant to Article 14(1) of the Act referred to at point 24e in Chapter II of Annex XIII to the Agreement of the European Economic Area (Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85), as adapted by the EEA Agreement by Protocol 1 thereto, Iceland is authorised to grant an exception from the provisions of Article 7(1) of the Act, extending the maximum driving time to five hours, for transports from Reykjavík to Freysnes and from Freysnes to Egilsstaðir. Other provisions of the Act shall be complied with, including Articles 6(2) and 6(3).

3. Exceptions granted by Iceland in accordance with this Decision may be in force from 30 October 2010 to 15 April 2011."

The Decision is addressed to Iceland.

The Authority takes the opportunity to remind Iceland on the obligation to make Regulation (EC) No 561/2006 and Directive 2006/22/EC part of the internal legal order, cf. EEA Article 7. Reference is made to the reasoned opinions dated 19 november 2008 (events No 495904 and No 495261), sent to Iceland for their failure to implement the above-mentioned acts. With reference to Article 6 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, the Icelandic Government is invited to confirm, without any further delay, that it has taken the measures necessary to make the acts part of their internal legal order.

To ensure the smooth handling of the notification, and to avoid unnecessary supplementary requests for information a *Form 1* should be completed for each of the two acts. The notifications should contain all the information requested in the *Form 1*, especially that mentioned in point 2 thereof (i.e. the enclosure of relevant national measures adopted).

Yours faithfully,



Hallgrímur Ásgeirsson
Director
Internal Market Affairs Directorate

Enclosed:
College Decision No. 255/10/COL

Case No: 67088
Event No: 540199
Dec. No: 255/10/COL



EFTA SURVEILLANCE
AUTHORITY

EFTA SURVEILLANCE AUTHORITY DECISION

of 21 June 2010

authorising Iceland to grant exceptions from rules on driving time and rest periods in road transport pursuant to Article 14(1) of the Act referred to at point 24e of Chapter II of Annex XIII to the Agreement of the European Economic Area (*Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85*), as adapted by the EEA Agreement by Protocol 1 thereto,

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Agreement of the European Economic Area, in particular Article 47 thereof, and Paragraph 4(d) of Protocol 1 to that Agreement,

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, in particular Article 5 thereof,

Having regard to the Act referred to at point 24e in Chapter II of Annex XIII of the EEA Agreement,

Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (hereinafter 'the Act'), and

as adapted by the EEA Agreement by Protocol 1 thereto, in particular Articles 6 to 8 and 14 thereof.

Whereas:

By a letter received on 9 November 2009 (event No 536532) and supplementary information received on 10 November 2009 (event No 536638), Iceland requested the EFTA Surveillance Authority to be authorised to grant certain exceptions from the driving time and rest periods rules of Regulation (EC) No 561/2006. After informal consultations with the Authority, by letter of 19 May 2010 (event No 558815) and further information provided in an e-mail dated 27 May 2010 (event No 558753), Iceland delivered a modified application, limiting the scope of its request. Iceland has now requested to be authorised to grant the following exceptions:

1. Exception from Article 6(1) of the Act, prolonging the extended daily driving time from 9 and 10 hours up to 11 hours four days of a week when transporting perishable foodstuffs from Neskaupsstaður to Reykjavík (715 km), Egilsstaðir to Reykjavík (654 km) and Ísafjörður to Reykjavík (456 km) during the period from 30 October until 15 April 2011. The request also covers driving the mentioned stretches in the opposite direction.
2. Exception from Article 7(1) of the Act, allowing driving time for up to five hours without a break when driving between Reykjavík and Freysnes and between Freysnes and Egilsstaðir, during the period from 30 October until 15 April 2011.

The conditions for authorising the requested exceptions are set out in Article 14(1) of the Act:

“Provided that the objectives set out in Article 1 are not prejudiced, Member States may, after authorisation by the Commission, grant exceptions from the application of Articles 6 to 9 to transport operations carried out in exceptional circumstances.”

1. Exception from Article 6(1)

According to Article 6(1) of the Act the daily driving shall not exceed 9 hours. However, the Act allows for extension of the daily driving time from 9 to maximum 10 hours twice per week. Effectively, if Iceland is authorised to grant the exception, this would mean further extension of the daily driving time from a maximum of 9 hours to 11 hours four days a week.

The Icelandic Government underlines that the accumulated driving time during any two consecutive weeks should not exceed 90 hours, cf. Art 6(3) of Regulation (EC) No 561/2006.

Iceland explains that an exception would only apply for carriage by road of perishable foodstuffs, such as fresh seafood, that needs to be transported in the quickest possible manner at a stable temperature to preserve the products for shipment abroad by air or sea carriers specifically designed for such transport. This transport has to be carried out irrespective of weather conditions to ensure the long-term viability of the seafood industry in outlying regions of Iceland.

Iceland explains that for the carriage of perishable food, road transport is the only mode of transportation. The transports from these outlying regions to the metropolitan area go through the most sparsely populated areas in Europe. Information provided by the Icelandic Government suggests that the average population density in the European Union is 113,0 persons per sq. km, whilst it for instance is 15,1 persons per sq. km. in Finland and 12, 6 persons per sq. km in Norway. In Iceland it is 3,1 persons per sq. km., with 63% of the population located in the metropolitan area around Reykjavik.

The Icelandic Government has stated that these transport operations normally can be concluded within the daily driving time limits of the Act. However, it is claimed by Iceland, that during winter, especially under difficult weather conditions, it may be very hard to complete the routes for which an exemption is requested within these time limits. According to information from Icelandic authorities, the road stretches between the

destinations in question do not contain adequate resting areas for trucks and lorries. Small towns and villages may serve as resting areas, but opening hours vary, and in general most relevant shops and service providers are closed between 1800 and 0900.

Iceland therefore claims that the exceptional nature of Iceland's geography, its weather conditions, especially during winter, its very low population density, poor road infrastructure, and the lack of resting areas for trucks and lorries, together constitute exceptional circumstances in the meaning of Article 14(1) of the Act. Iceland also claims that the granting of such an exception would not prejudice the objectives set out in Article 1 of the Act.

In the light of the information provided by Iceland and in particular the very limited period of time for which an exception is requested, the Authority considers that the conditions for applying Article 14(1) of the Act are fulfilled.

The request of Iceland to be authorised to grant an exception from Article 6(1) is therefore approved. Accordingly, Iceland may grant an exception from Article 6(1) for the transport perishable foodstuffs on the specific routes requested, extending the maximum daily driving time to maximum 11 hours four days a week during the period 30 October 2010 to 15 April 2011.

The Authority underlines that the authorisation of Iceland to grant such exception is temporary and limited to the extension of the daily driving time to a maximum of 11 hours four days of a week for a limited period. It is acknowledged by the Icelandic Government that extending the driving time is without prejudice to Article 6(3) of the Act. Thus the total accumulated driving time over any two consecutive weeks may not exceed 90 hours. Furthermore, the exception is without prejudice to Article 6(2). Consequently, weekly working time may not exceed 56 hours and the maximum average working time may not exceed 48 hours a week over four months, as laid down in Article 4 of the Act referred to at point 24d of Chapter II of Annex XIII to the EEA Agreement (*Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities*).

2. Exception from Article 7(1)

The second exception applied for by the Icelandic Government concerns the route between Reykjavík and Freysnes in the Southern part of Iceland and Freysnes to Egilsstaðir in the Eastern part of Iceland. The Icelandic Government has requested the driving period stipulated in Article 7 of the Act to be extended from four and a half hours to five hours before the driver is obliged to take a break, in order to be able to reach Freysnes or Egilsstaðir.

According to information from Iceland the only possibility to make it between Reykjavík and Egilsstaðir in one day is by taking only one break on the way, cf. the requirements of Article 7. The Icelandic Government has explained that the route between Reykjavík and Egilsstaðir goes through Freysnes, which is a service area located exactly mid-way on the route. As there are currently no other stopping points with equivalent level of service facilities in the area close to Freysnes, the drivers have to make it to Freysnes for their break to be able to reach Egilsstaðir in one day.

The Icelandic Government explains that under good weather conditions, drivers should be able to reach Freysnes and Egilsstaðir within existing time limits. But in bad weather,

particularly in winter, driving slows down and an extension of the time limits becomes necessary. Iceland has requested an authorisation to grant exception from Article 7 concerning the period 30 October 2010 to 15 April 2011, when weather conditions can be at their worst. This is also the time of the year when the Government permits the use of studded winter tires.

Iceland has informed the Authority that the distance from Reykjavík to Freysnes is 327 km, the same as between Freysnes and Egilsstaðir. The most hazardous stretch of road between Reykjavík and Egilsstaðir is over Breiðamerkursandur and Skeiðarársandur which are non-populated black sand deserts, stretching over large areas before arriving in Freysnes from each direction. This area has the highest amount of precipitation in Iceland. Because of its remoteness, it was only in 1974 that this part of Iceland was made accessible by car. Severe sandstorms are common, especially in wintertime, which can cause severe risks to road traffic and have in many instances damaged automobiles caught in sand storms. It is therefore imperative that drivers can reach Freysnes in the shortest time possible for safety reasons. At present there are no facilities with adequate services (and opening hours) on long stretches before Freysnes.

The route between Freysnes and Egilsstaðir is also extremely sparsely populated and has no actual rest areas on the way, except for the town of Höfn in Hornafjörður. But as there are only 120 km between Freysnes and Höfn, this town is an unpractical option as a resting place. In addition Höfn has limited services during the period of the exception applied for. The Icelandic Government does, therefore, consider it important for drivers, for safety reasons, to be able to reach Egilsstaðir, the main town in East Iceland having an adequate level of services.

In the light of the information provided by Iceland and in particular the very limited period of time for which an exception is requested, the Authority considers that the conditions for applying Article 14(1) of the Act are fulfilled.

The Authority underlines that the authorisation of Iceland to grant such an exception from Article 7 is temporary, limited to specified routes the coming winter, and does not go beyond the possibility to extend a driving period to five hours before conducting an uninterrupted break of not less than 45 minutes.

The request of Iceland to be authorised to grant an exception from Article 7(1) is therefore approved. Accordingly, Iceland may grant an exception from Article 7(1) for transports on the routes requested, for the period 30 October 2010 to 15 April 2011, extending the driving period up to five hours before a driver shall take an uninterrupted break of minimum 45 minutes.

HAS ADOPTED THIS DECISION:

1. Pursuant to Article 14(1) of the Act referred to at point 24e in Chapter II of Annex XIII to the Agreement of the European Economic Area (*Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85*), as adapted by the EEA Agreement by Protocol 1 thereto, Iceland is authorised to grant an exception from the provisions of Article 6(1) of the Act for vehicles carrying fresh and perishable

foodstuffs from Ísafjörður to Reykjavík and back, from Neskaupstaður to Reykjavík and back, and from Egilsstaðir to Reykjavík and back. The daily driving time as laid down in Article 6(1) may be extended to maximum 11 hours not more than four days a week. Other provisions of the Act shall be complied with, including Articles 6(2) and 6(3).

2. Pursuant to Article 14(1) of the Act referred to at point 24e in Chapter II of Annex XIII to the Agreement of the European Economic Area (*Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85*), as adapted by the EEA Agreement by Protocol 1 thereto, Iceland is authorised to grant an exception from the provisions of Article 7(1) of the Act, extending the maximum driving time to five hours, for transports from Reykjavík to Freysnes and from Freysnes to Egilsstaðir. Other provisions of the Act shall be complied with, including Articles 6(2) and 6(3).
3. Exceptions granted by Iceland in accordance with this Decision may be in force from 30 October 2010 to 15 April 2011.
4. The Decision shall enter into force upon notification to Iceland.
5. This Decision is addressed to Iceland.
6. This Decision shall be authentic in the English language.

Brussels, 21 June 2010

For the EFTA Surveillance Authority


Per Sanderud
President


Sverrir Haukur Gunnlaugsson
College Member