

EUROPEAN ECONOMIC AREA

EFTA-COURT

Request for an advisory opinion from the EFTA Court by Héraðsdómur Reykjavíkur (Reykjavík City Court) by decision of that court of 17 April 1998 in the case of Federation of Icelandic Trade (Samtök verslunarinnar — Félag íslenskra stórkaupmanna, FÍS) v. the Government of Iceland and the Pharmaceutical Pricing Committee (Lyfjaverðsnefnd)

(Case E-2/98)

(98/C 275/04)

A request has been made to the EFTA Court by decision of 17 April 1998 of Héraðsdómur Reykjavíkur (Reykjavík City Court), Iceland, which was received at the Court Registry on 22 April 1998, for an advisory opinion in the case of Federation of Icelandic Trade (Samtök verslunarinnar — Félag íslenskra stórkaupmanna, FÍS) v. the Government of Iceland and the Pharmaceutical Pricing Committee (Lyfjaverðsnefnd), on the following questions:

- 1(a) Does Council Directive 89/105/EEC, in particular Articles 2 and 3, apply to circumstances where a competent authority, empowered to approve the maximum prices of pharmaceuticals, decides, on its own motion, to decrease by 2,65 % the wholesale prices of all prescribed pharmaceuticals which are subject to provisions regarding marketing authorisation following the approval by a competent authority of a certain price, and which are subject to provisions regarding authority to increase prices, following the approval thereof by a competent authority, and which cost more than ISK 3 000, for the purpose of lowering the prices of pharmaceuticals to the public in accordance with prices in neighbouring countries and to reduce State expenditure on pharmaceuticals?
- (b) Is such a unilateral decision by a competent authority in conformity with Directive 89/105/EEC?
- (c) Does it affect the answer to the question if it is possible to apply for price increases for particular products despite the general decision to decrease wholesale prices?
- 2(a) Is Article 2(2) of Directive 89/105/EEC to be interpreted to the effect that a unilateral decision by a competent authority, such as the one referred to in question 1, amounts to a rejection by the authority for marketing of a pharmaceutical product at a particular price?
- (b) If so, and if it is possible to apply for a price increase for particular products despite the general decision to decrease wholesale prices, does this affect the requirements for the reasoning by the competent authority, the information regarding legal measures available to the wholesaler and the time limits available?