

## EFTA COURT

### **Request for an Advisory Opinion from the EFTA Court by Norges Høyesterett dated 5 June 2015 in the case of Holship Norge AS v Norsk Transportarbeiderforbund**

(Case E-14/15)

A request has been made to the EFTA Court by a letter dated 5 June 2015 from Norges Høyesterett (the Supreme Court of Norway), which was received at the Court Registry on 5 June 2015, for an Advisory Opinion in the case of Holship Norge AS v Norsk Transportarbeiderforbund on the following questions:

**A**     *On competition law:*

**A.1**    **Does the exemption from the competition rules of the EEA Agreement that applies to collective agreements, as this exemption is described *inter alia* in the advisory opinion of the EFTA Court in Case E-8/00 *Landsorganisasjonen i Norge and NKF* [2002] EFTA Ct. Rep. 114, cover the use of a boycott against a port user in order to produce acceptance of a collective agreement, when such acceptance entails that the port user must give preference to buying unloading and loading services from a separate administration office as described in paragraphs 7 and 10 to 14 above, rather than to use its own employees for the same work?**

**A.2**    **If not, should such a system be assessed under Article 53 or Article 54 of the EEA Agreement?**

**A.3**    **In that case, must the existence of an identical or corresponding system in other ports be taken into account in the assessment of whether there is a noticeable effect on cross-border trade within the EEA?**

**B**     *On the freedom of establishment:*

**B.1**    **Is it a restriction on the freedom of establishment pursuant to Article 31 of the EEA Agreement for a trade union to use a boycott in order to produce acceptance of a collective agreement by a company whose parent company is based in another EEA State, when the collective agreement entails that the company must give preference to buying unloading and loading services from a separate administration office having the characteristics described in paragraphs 10 to 14 above, rather than use its own employees for this work?**

- B.2 Would it be of significance for the assessment of whether a restriction exists, if the company's need for unloading and loading services proved to be very limited and/or sporadic?**
- B.3 If a restriction exists: Is it of significance for the assessment of whether the restriction is lawful or not, that the company, in relation to its own dockworkers, applies another collective agreement negotiated between the social partners in the State where the port is located, when that collective agreement concerns matters other than unloading and loading work?**