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Judgment in Case E-16/23 *EFTA Surveillance Authority v The Kingdom of Norway*

**RIGHT OF RESIDENCE OF THIRD-COUNTRY NATIONALS WHO ARE
PRIMARY CARERS OF EEA NATIONAL CHILDREN**

In a judgment delivered today, the Court addressed the question whether third country primary carers of EEA national children may have a right to residence according to the Free Movement Directive (“Directive”).

The case, brought by the EFTA Surveillance Authority (“ESA”) against Norway, concerned whether Norway’s interpretation and application of its Immigration Act aligned with its obligations under the Directive.

Norway has refused to grant residence rights to third-country national primary carers’ of EEA national children. ESA argued that Norway’s administrative practice prevented children who depend on their primary carers from fully exercising their right to reside in Norway, as guaranteed by Article 7(1)(b) of the Directive.

The Court found that EEA national children with sufficient resources, regardless of the source of those resources, have a right to residence under the Directive. It emphasised that this right encompasses that the children’s primary carers can reside with them, even if the primary carers are third-country nationals. The Court reasoned that denying such residency to the third-country national primary carers would render the children’s right of residence ineffective, thereby undermining the fundamental principles of the Directive.

The Norwegian authorities must now take necessary steps to align national law with the Court’s interpretation of the EEA law in question.

The full text of the judgment is available on the Court’s website: eftacourt.int/cases/e-1623/

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