

EFTA COURT

Action brought on 16 February 2015 by the EFTA Surveillance Authority against the Kingdom of Norway

(Case E-6/15)

An action against the Kingdom of Norway was brought before the EFTA Court on 16 February 2015 by the EFTA Surveillance Authority, Xavier Lewis and Clémence Perrin, acting as Agents of the EFTA Surveillance Authority, 35, Rue Belliard, B-1040 Brussels.

The applicant requests EFTA Court to declare that:

- 1. By maintaining in force Sections 20-1, second paragraph and 22-3 of the Planning Building Act, read in conjunction with Sections 9-1 to 9-4 and 11-1 of the Building Regulation, which require undertakings carrying out construction works to obtain an authorisation by local municipalities prior to the beginning of their activity, Norway has failed to fulfil its obligations under Article 16 of the Act referred to at point 1 of Annex X of the EEA Agreement (*Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market*), or, alternatively, Article 36 of the EEA Agreement.**
- 2. The Kingdom of Norway bears the costs of the proceedings.**

Legal and factual background and pleas in law adduced in support:

- The case concerns the requirement under Norwegian law (Sections 20-1, second paragraph and 22-3 of the Planning Building Act, read in conjunction with Sections 9-1 to 9-4 and 11-1 of the Building Regulation) for undertakings wishing to carry out construction services in Norway to be approved by local municipalities before they start their activity. Such approval must be obtained before every individual construction project.
- The EFTA Surveillance Authority submits that the requirement amounts to a restriction which cannot be justified under Article 16(1) and (3) of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (the “Services

Directive”) or, alternatively, that such measure amounts to a restriction of freedom to provide services under Article 36 of the EEA Agreement, which cannot be justified under Article 33 of the EEA Agreement.

- Norway claims that, in principle, such an authorisation scheme is not contrary to the Services Directive since it can be justified under Article 16(1) and (3) of that Directive.