

EFTA COURT

Request for an Advisory Opinion from the EFTA Court by the Supreme Court of Norway dated 22 June 2023 in criminal proceedings against MH

(Case E-6/23)

A request has been made to the EFTA Court dated 22 June 2023 from the Supreme Court of Norway (*Norges Høyesterett*), which was received at the Court Registry on 22 June 2023, for an Advisory Opinion in criminal proceedings against *MH*, on the following questions:

- 1. Must Article 5(1) and/or Article 6(2) of Directive 2004/38/EC of the European Parliament and of the Council be interpreted as meaning that a third country national, who is married to an EEA national who has exercised his or her right of free movement by moving together with the third country national to another EEA State than the EEA State of which the spouse is a national, has a right of entry and residence in the spouse's home State for up to three months, even where the third country national, in the time before the marriage was entered into, was permanently expelled from the spouse's home State in accordance with national rules applicable to third country nationals?**
- 2. If question 1 is answered in the affirmative: Does Article 32 of Directive 2004/38/EC of the European Parliament and of the Council apply, potentially by analogy, in a situation as described in question 1, with the result that the national authorities in the State of entry may require that the third country national files an application to have the exclusion order lifted before the person in question enters that State?**
- 3. Does Article 36 of Directive 2004/38/EC of the European Parliament and of the Council or other EEA law obligations restrict the EEA States' possibility to sanction violations of national decisions on exclusion orders in a situation as described in question 1 and, if so, in what manner?**