

EFTA COURT

Request for an Advisory Opinion from the EFTA Court by Oslo tingrett dated 21 June 2016 in the case of Netfonds Holding ASA m.fl. v Staten v/ Finansdepartementet

(Case E-8/16)

A request has been made to the EFTA Court by a letter dated 21 June 2016 from Oslo tingrett (the Oslo District Court), which was received at the Court Registry on 27 June 2016, for an Advisory Opinion in the case of Netfonds Holding ASA m.fl. v Staten v/ Finansdepartementet on the following questions:

1. Do the issue rules in Section 4 of the Commercial Banks Act and Section 2-1 of the Insurance Activity Act, understood as a requirement that three quarters of the shares in new banks and insurance companies must be subscribed without preferential rights (offered as a public issue), constitute a restriction under Article 31 EEA, Article 36 EEA or Article 40 EEA, provided that the application for a licence is not just for a niche activity?

a. Assuming that the rules constitute a restriction within the meaning of the EEA Agreement: Do the rules pursue a legitimate public objective?

b. Assuming that the restriction pursues a legitimate public objective: Is such a restriction suitable within the meaning of EEA law?

c. Assuming that the restriction pursues a legitimate public objective: Is such a restriction necessary within the meaning of EEA law?

2. Do the issue rules in Section 4 of the Commercial Banks Act and Section 2-1 of the Insurance Activity Act, understood as a requirement that three quarters of the shares in new banks and insurance companies must be subscribed by persons other than the promoters, constitute a restriction under Article 31 EEA, Article 36 EEA or Article 40 EEA, provided that the application for a licence is not just for a niche activity?

a. Assuming that such rules constitute a restriction within the meaning of the EEA Agreement: Do the rules pursue a legitimate public objective?

b. Assuming that the restriction pursues a legitimate public objective: Is such a restriction suitable within the meaning of EEA law?

c. Assuming that the restriction pursues a legitimate

public objective: Is such a restriction necessary within the meaning of EEA law?

3. Does an established administrative practice whereby individuals or enterprises are not authorised to own more than 20 to 25 per cent of the shares in financial institutions, except in those cases where the law itself authorises the establishment of a financial group or where the financial institution will engage in what is referred to a niche activity only, constitute a restriction under Article 31 EEA, Article 36 EEA or Article 40 EEA, provided that the application for a licence is not just for a niche activity?

a. Assuming that such an established administrative practice constitutes a restriction within the meaning of the EEA Agreement: Is the restriction in pursuance of a legitimate public objective?

b. Assuming that the restriction pursues a legitimate public objective: Is such a restriction suitable within the meaning of EEA law?

c. Assuming that the restriction pursues a legitimate public objective: Is such a restriction necessary within the meaning of EEA law?