



Luxembourg, 12 December 2024

PRESS RELEASE 16/2024

Judgment in Case E-8/24 *Nordsjø Fjordbruk AS v The Norwegian State*

ANIMAL HEALTH LAW AND BIOSECURITY IN AQUACULTURE

In a judgment delivered today, the Court answered questions referred to it by the Supreme Court of Norway (*Norges Høyesterett*) regarding the application of EU's Animal Health Law No. 2016/429 ("the Regulation"). The case examined the extent of the powers national authorities have to manage disease risks in aquaculture and the balance between precautionary measures and operational freedom of companies.

The case arose when Nordsjø Fjordbruk AS, a Norwegian aquaculture company, challenged a decision by the Norwegian Food Safety Authority to refuse approval of its operating plan for the Nappholmene aquaculture site. Despite no evidence of disease at the site, the authority deemed the proposed movements of fish from another aquaculture site to exceed an acceptable level of risk, citing concerns about latent diseases and the potential for disease transmission during transport.

The Court found that under the Regulation, national authorities are allowed to impose restrictions or refuse approvals when disease risks are assessed as unacceptable. Furthermore, the Court found that such measures must be grounded in a scientific risk assessment that is independent, objective, and transparent. While purely hypothetical risks are insufficient to justify such restrictions, the precautionary principle allows for preventive actions based on substantiated concerns.

The Court further observed that EEA States may impose stricter animal health biosecurity measures as long as they are consistent with the Regulation. Contrary to the submissions of Nordsjø Fjordbruk AS, a measure that essentially prohibits the movement of farmed fish between aquaculture establishments may be consistent with the Regulation, provided that the central veterinary authority, following a specific and scientific risk assessment in accordance with the precautionary principle, determines that considerations of fish health at the individual site or in an area warrant such a measure.

The advisory opinion is a step in the proceedings pending before the national court. The Supreme Court of Norway will now resume its proceedings and decide the case pending before it in light of the Court's interpretation of the Regulation.

The full text of the judgment is available on the Court's website: eftacourt.int/cases/e-0824/.

This press release is an unofficial document and is not binding upon the Court.