



Luxembourg, 15 July 2021

PRESS RELEASE 11/2021

Judgment in Case E-9/20 *EFTA Surveillance Authority v The Kingdom of Norway*

NORWEGIAN LAW ON RESIDENCE AND NATIONALITY REQUIREMENTS FOR CORPORATE OFFICERS IN BREACH OF EEA LAW

In a judgment delivered today, the Court partially upheld an application brought by the EFTA Surveillance Authority (“ESA”) against the Kingdom of Norway. In its judgment, the Court found that certain provisions of Norwegian law infringed Article 31 of the EEA Agreement (“EEA”) on the freedom of establishment.

The provisions of Norwegian law at issue require both residence in and nationality of an EEA State for the general manager and at least half of the board members of private limited companies, public limited companies and financial undertakings, for members of the corporate assembly in the case of public limited companies (“the corporate officer scheme”), and for the founders of a financial undertaking (“the founder scheme”).

As regards the corporate officer scheme, the Court found that the combined requirement of residence in and nationality of an EEA State constitutes an unjustified obstacle to the freedom of establishment. Norway submitted that the corporate officer scheme aims to ensure the effective enforcement of the civil and criminal liability of corporate officers. The Court held that the safeguarding of the administration of justice as such constitutes a legitimate objective for justifying restrictive measures, but that the combined requirement is neither suitable nor necessary to attain this aim. The combined requirement does not ensure that the civil and criminal liability of members of the board and the corporate assembly could be enforced effectively in a consistent and systematic manner. As Norway regards mere residence in Norway as sufficient to attain the aim, the combined requirement of residence in and nationality of the EEA is neither suitable nor necessary to attain the stated objective.

As to the founder scheme, the Court held that the requirement of residence in the EEA constituted a restriction of Article 31 EEA. As regards the justification of that measure, Norway had failed to provide any justification as it merely submitted that it has no longer any practical relevance under Norwegian law and that it will be proposed to the Norwegian Parliament that the provision be repealed.

With regard to ESA’s further pleas, based on Article 28 EEA and Article 1(1) of Regulation (EU) No 492/2011 on freedom of movement for workers, the application was dismissed.

The full text of the judgment may be found on the Court’s website: www.eftacourt.int.

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