



Luxembourg, 15 December 2016

## **PRESS RELEASE 11/2016**

### **Judgment in Case E-1/16 *Synnøve Finden AS v The Norwegian Government, represented by the Ministry of Agriculture and Food***

#### **A SPECIAL SUBSIDY GRANTED FOR THE DISTRIBUTION OF LIQUID MILK PRODUCTS MAY CONSTITUTE UNLAWFUL STATE AID**

In a judgment delivered today, the Court answered questions referred to it by Oslo District Court (*Oslo tingrett*) on the interpretation of Articles 31 and 61 EEA.

The Norwegian Regulation of 29 June 2007 No 832 on a price equalisation system for milk (“the PE Regulation”) provides *inter alia* for a special distribution subsidy which is granted to Q-Meieriene AS (“Q-dairies”) for the distribution of liquid milk products. Synnøve Finden AS (“Synnøve Finden”) produces several solid milk products in Norway. In September 2014, Synnøve Finden informed the Ministry of Agriculture and Food that it was planning to commence production of yogurt and milk for consumption and sought to obtain confirmation of the framework conditions for such production. In particular, Synnøve Finden mentioned the special distribution subsidy granted to Q-dairies. The Ministry replied to Synnøve Finden that there was no intention to extend the circle of recipients of the subsidy granted to Q-dairies for the distribution of liquid milk products. As a result, Synnøve Finden brought an action against the Norwegian Government before Oslo District Court, claiming primarily that the provision of the PE Regulation, which provides for this special distribution subsidy, be declared invalid. In the alternative, Synnøve Finden claims that this provision entails unlawful State aid.

The Court found that the subsidy may constitute a State aid measure. Such a scheme is subject to the notification requirement laid down in Article 1(3) of Part I of Protocol 3 to the Agreement between the EFTA States on a Surveillance Authority and a Court of Justice, if the referring court comes to the conclusion that it fulfils all the requirements for State aid. In particular, the referring court must assess whether there is an intervention by the State or through State resources, whether the intervention is liable to affect trade between EEA States, whether it confers a selective advantage on the beneficiary and whether it distorts or threatens to distort competition.

The Court further held that in the event that a State aid scheme is inseparably linked to certain products not exclusively outside the scope of the EEA Agreement, the measure as a whole must be notified to the EFTA Surveillance Authority. In the case at issue, the distribution subsidy applies not only to products falling outside the scope of the EEA Agreement, but also to products which are within the scope of the Agreement. All products covered by the subsidy are, although distinguishable by their nature, distributed together. The measure at issue is, thus, to the benefit of products both inside and outside the scope of the Agreement.

Finally, the Court found that a national court will not have cause to assess a State aid scheme in light of the freedom of establishment in Article 31 EEA, unless it can be assessed separately in law from the State aid measure. A separate assessment does not appear possible in the case at hand.

The full text of the judgment may be found on the internet at: [www.eftacourt.int](http://www.eftacourt.int).

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