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Judgment in Case E-25/24 *Dartride AS v the Norwegian State, represented by the Ministry of Justice and Public Security (Staten v/Justis- og beredskapsdepartementet)*

PRINCIPLE OF STATE LIABILITY EXTENDS TO BREACHES OF EEA LAW BY NATIONAL COURTS

In a judgment delivered today, the Court answered questions referred to it by Eidsivating Court of Appeal (*Eidsivating lagmannsrett*) concerning the existence of and conditions for State liability for the actions of national courts. The request was made in proceedings between Dartride AS and the Norwegian State before the referring court in which Dartride AS claims damages for an alleged infringement of EEA law by a national court.

In its judgment, the Court held that the principle of State liability is a general principle of EEA law and must be seen as an integral part of the EEA Agreement. The principle of State liability under EEA law entails that an EFTA State is obliged to provide for compensation for loss and damage caused to individuals and economic operators as a result of breaches of the obligations under the EEA Agreement for which that State can be held responsible.

The Court has repeatedly held that access to justice and effective judicial protection are essential elements in the EEA legal framework. In light of the essential role played by the judiciary in the protection of the rights derived by individuals under EEA law, the full effectiveness of EEA law is liable to be jeopardised and the protection of those rights would be weakened if individuals were precluded from being able, under certain conditions, to obtain redress when their rights are affected by an infringement of EEA law attributable to a decision of a court of an EEA State adjudicating at last instance.

The Court emphasised that a court adjudicating at last instance is by definition the last judicial body before which individuals may assert the rights conferred on them by EEA law. Since an infringement of those rights by a final decision of such a court cannot, as a general rule, be corrected, individuals must not be deprived of the possibility of rendering the State liable for such an infringement in order to obtain legal protection of their rights. Furthermore, the Court held that there is no reason why the scope of the principle of State liability under EEA law should be narrower than under EU law.

The Court held that three conditions must be satisfied for State liability under EEA law: firstly, the rule of law infringed must be intended to confer rights on individuals and economic operators; secondly, the breach must be sufficiently serious; and, thirdly, there must be a direct causal link between the breach of the obligation resting on the State and the damage sustained by the injured party.

With regard to the second condition and its application with a view to establishing possible State liability owing to a decision of a national court adjudicating at last instance, the Court found that regard must be had to the specific nature of the judicial function and to the legitimate requirements of legal certainty. State liability for an infringement of EEA law by a decision of a national court adjudicating at last instance can be incurred only in the exceptional case where the court has manifestly infringed the applicable EEA law.

The advisory opinion is a step in the proceedings pending before the national court. Eidsivating Court of Appeal will now resume its proceedings and decide the case pending before it in light of the Court's judgment.

The full text of the judgment is available on the Court's website: <https://eftacourt.int/cases/e-25-24/>.

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