

Action brought on 4 April 2007 by Private Barnehagers Landsforbund against the EFTA Surveillance Authority

(Case E-5/07)

(2007/C 186/10)

An action against the EFTA Surveillance Authority was brought before the EFTA Court on 4 April 2007 by Private Barnehagers Landsforbund, represented by Peter Dyrberg and Ingvald Falch, Advokatfirmaet Schjødt, Dronning Mauds gt 11, Oslo, Norway.

The applicant claims that the Court should:

1. annul the decision of the EFTA Surveillance Authority No 39/07/COL of 27 February 2007 on public financing of municipal day-care institutions in Norway; and
2. order the EFTA Surveillance Authority to pay the costs of the proceedings.

Legal and factual background and pleas in law adduced in support:

- The applicant is the association of private kindergartens in Norway,
 - The applicant contends that Norway's system for the funding of kindergartens entails State aid which is incompatible with the EEA Agreement,
 - The EFTA Surveillance Authority's Decision No 39/07/COL of 27 February 2007 declared that the system at issue did not entail such State aid, arguing first that kindergartens cannot be considered as undertakings, and second that the measure did not have an effect on cross-border trade. Moreover, in case aid should be involved, the EFTA Surveillance Authority found that it would be compatible with the EEA Agreement under Article 59(2) of the Agreement;
 - The applicant claims that the EFTA Surveillance Authority:
 - violated its obligation to initiate formal investigation proceedings,
 - wrongfully interpreted and applied Articles 59(2) and 61(1) EEA,
 - violated Article 16 SCA on the obligation to state reasons for a decision, and principles of good administration, in particular the obligation to conduct an impartial and diligent examination of the case.
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