

EFTA COURT

Action brought on 11 January 2005 by the EFTA Surveillance Authority against the Kingdom of Norway

(Case E-1/05)

(2005/C 60/10)

An action against the Kingdom of Norway was brought before the EFTA Court on 11 January 2005 by the EFTA Surveillance Authority, represented by Niels Fenger and Per Andreas Bjørgan, acting as Agents of the EFTA Surveillance Authority, 35, Rue Belliard, B-1040 Brussels.

The applicant claims that the Court should:

1. Declare that by maintaining in force the requirement on up-front payment of completion costs found in Section 3(2) of the Norwegian Regulation of 21 November 1989 No 1167 on the Allocation of Costs, Losses, Income, Funds etc. between Insurance Undertakings in a Concern and between Branches and Contracts of Insurance Undertakings, and Section 10 of the Norwegian Regulation of 22 September 1995 No 827 on Insurance Services and the Establishment of a Branch of an Insurance Undertaking with Headquarters in another EEA State, the Kingdom of Norway has failed to fulfil its obligation pursuant to Article 33 of the Act referred to at point 11 of Annex IX to the Agreement on the European Economic Area (*Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance*) as adapted to the EEA Agreement by Protocol 1 thereto; and
2. Order the Kingdom of Norway to pay the costs of the proceedings.

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

- Article 33 of the Act states that the EEA State of the commitment ‘shall not prevent a policy holder from concluding a contract with an assurance undertaking authorised under the conditions of Article 4 as long as that does not conflict with legal provisions protecting the general good in the Member State of the commitment’.
 - The preamble of the Act states that ‘within the framework of an internal market it is in the policy-holders’ interest that they should have access to the widest possible range of assurance products available in the Community so that they can choose that which is best suited to their needs... [I]n an internal market for assurance the consumer will have a wider and more varied choice of contracts’.
 - The Norwegian requirement in Section 10 of Regulation of 22 September 1995 No 827 requires foreign assurance undertakings to calculate and require payment of completion costs in accordance with Section 3(2) of Regulation of 21 November 1989 No 1167 in order to market their products in Norway.
 - The requirement prevents a policy-holder in Norway from entering into a contract with an assurance undertaking that distributes completion costs over a period of time, thereby limiting consumer choice.
 - Furthermore, the provision potentially limits the provision of different assurance services since assurance undertakings authorised in other EEA States may be hindered from marketing their products in Norway.
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