

NOTICES CONCERNING THE EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY

Opinion of the EFTA Advisory Committee on restrictive practices and dominant positions concerning a draft decision relating to Case 59120 — Color Line**8 December 2011**

(2012/C 180/03)

1. The Advisory Committee agrees with the EFTA Surveillance Authority's definition of the relevant market.
 2. The Advisory Committee agrees with the EFTA Surveillance Authority that from 1 January 1994 to 20 December 2005 the long-term exclusive rights held by Color Line pursuant to the 1991 harbour agreement to use the harbour facilities at Torskolmen in Strömstad had the effect of preventing, restricting or distorting competition within the meaning of Article 53(1) of the EEA Agreement.
 3. The Advisory Committee agrees with the EFTA Surveillance Authority that Color Line has not shown that the conditions laid down in Article 53(3) of the EEA Agreement are satisfied in this case.
 4. The Advisory Committee agrees with the EFTA Surveillance Authority that Color Line was dominant on the relevant market from 1 January 1994 to 20 December 2005.
 5. The Advisory Committee agrees with the EFTA Surveillance Authority that from 1 January 1994 to 20 December 2005 the long-term exclusive rights held by Color Line pursuant to the 1991 harbour agreement to use the harbour facilities at Torskolmen in Strömstad amounted to an abuse of Color Line's dominant position within the meaning of Article 54 of the EEA Agreement.
 6. The Advisory Committee agrees that, during the period under examination, the harbour agreement was capable of affecting trade between contracting parties within the meaning of Articles 53 and 54 of the EEA Agreement.
 7. The Advisory Committee agrees with the EFTA Surveillance Authority that the proceedings can be concluded by means of a decision pursuant to Article 7(1) and Article 23(2) of Chapter II of Protocol 4 to the Surveillance and Court Agreement.
 8. The Advisory Committee agrees with the EFTA Surveillance Authority that a fine should be imposed on the addressees of the draft decision.
 9. The Advisory Committee recommends the publication of its opinion in the *Official Journal of the European Union* and the EEA Supplement.
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