

COURT PROCEEDINGS

EFTA COURT

Action brought on 13 March 2013 by Bentzen Transport AS against the EFTA Surveillance Authority**(Case E-2/13)**

(2013/C 174/06)

An action against the EFTA Surveillance Authority was brought before the EFTA Court on 13 March 2013 by Bentzen Transport AS, represented by Line Voldstad, Lawyer, Advokatfirma DLA Piper Norway DA, Postboks 1364 Vika, 0114 Oslo, Norway.

The Applicant requests the EFTA Court to:

1. Annul the EFTA Surveillance Authority Decision of 19 December 2012, Case No 71620, concerning closing a case against Norway commenced following receipt of a complaint against the State in the field of public procurement;
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 a local Norwegian company operating in the waste-management business since 1992.
- The basis for the application is the EFTA Surveillance Authority's Decision in Case No 71620, not to initiate procedure against Norway when requested by the applicant to assess whether the Norwegian Government's management of a tender process was in compliance with the directives under the EEA Agreement.

The Applicant claims, *inter alia*, that:

- the EFTA Surveillance Authority has not assessed whether the awarding of the public contract was in compliance with Directive 2004/18/EC and thus infringed its duty to uphold Article 2 of Directive 2004/18/EC and the fundamental rules of the EEA Agreement applicable to public procurement and asserts that the principle of equal treatment has been violated;
 - the EFTA Surveillance Authority infringed its special duty under Article 23 of the Surveillance and Court Agreement to ensure that the regulations in the EEA Agreement relating to public procurement are upheld by the EFTA States; and
 - the EFTA Surveillance Authority has infringed its duty to state reasons, cf. Article 16 SCA.
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