

Action brought on 21 July 2011 by the EFTA Surveillance Authority against Norway**(Case E-9/11)**

(2011/C 294/08)

An action against Norway was brought before the EFTA Court on 21 July 2011 by the EFTA Surveillance Authority, represented by Xavier Lewis, Florence Simonetti Gjermund Mathisen, acting as Agents of the EFTA Surveillance Authority, 35, Rue Belliard, 1040 Brussels, Belgium.

The EFTA Surveillance Authority requests the EFTA Court to declare that:

1. By maintaining in force such restrictions on the rights of persons and undertakings established in EEA States to own holdings and exercise voting rights in regulated markets in Norway as provided for in Sections 35(1), (2) and (3) and 36 of the Act of 29 June 2007 No 74 on Regulated Markets (the Stock Exchange Act) and Sections 5-3(1), (2) and (3) and 5-4 of the Act of 5 July 2002 on Registration of Financial Instruments (the Securities Depositories Act), the Kingdom of Norway has failed to fulfil its obligations arising from Articles 31 and 40 EEA.
2. The Kingdom of Norway bear the costs of the proceedings.

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

- Norwegian legislation restricts ownership of and voting rights in financial services infrastructure institutions. As a main rule, the Stock Exchange Act prohibits the holding of more than 20 % of the shares in stock exchanges, as well as the voting for more than 20 % of the total voting capital or 30 % of the votes represented at the general meeting. Corresponding rules with respect to securities depositories are laid down in the Securities Depositories Act.
 - The EFTA Surveillance Authority submits that the contested legislation is incompatible both with the freedom of establishment under Article 31 EEA and with the freedom movement of capital under Article 40 EEA.
 - The EFTA Surveillance Authority submits in particular that the contested legislation is unnecessary to promote the well-functioning and efficiency of the financial markets and to inspire confidence among market operators in the independence and impartiality of the institutions. It argues that alternative, less restrictive measures are available that would be sufficiently effective.
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