

EFTA COURT

**Action brought on 23 September 2024 by the EFTA Surveillance Authority
against Norway**

(Case E-24/24)

An action against Norway was brought before the EFTA Court on 23 September 2024 by the EFTA Surveillance Authority, represented by Kyrre Isaksen, Erlend Møinichen Leonhardsen, Claire Simpson, and Melpo-Menie Joséphidès, acting as Agents of the EFTA Surveillance Authority, Avenue des Arts 19H, B-1000 Brussels, Belgium.

The EFTA Surveillance Authority requests the EFTA Court to:

- 1. Declare that, by maintaining in force Section 6-3(2), in particular its first sentence and provisions (c) and (d) thereof, of the Act of 10 April 2015 No 17 on financial institutions and financial groups, Norway has failed to fulfil its obligations under Articles 22(8), 23(1) and (2) of Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, as amended by Directive 2019/878, and Articles 58(7), 59(1) and (2) of Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);**
- 2. Declare that, by maintaining in force an administrative practice which requires the approval of national authorities for the acquisition of 25% or more of voting rights or capital in credit institutions and insurance undertakings and which, save in the case of limited exceptions, results in the rejection of an application for such approval with no consideration of its merits, Norway has failed to fulfil its obligations under Articles 22 and 23 of Directive 2013/36/EU, as amended by Directive 2019/878, and Articles 57 to 59 of Directive 2009/138/EC;**
- 3. Order Norway to bear the costs of the proceedings.**

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

- By the present Application, the EFTA Surveillance Authority (the Authority) seeks a declaration that by maintaining in force certain national rules, Norway has failed to fulfil its obligations under Articles 22(8), 23(1) and (2) of Directive 2013/36/EU (CRD), and Articles 58(7),

59(1) and (2) of Directive 2009/138/EC (Solvency II) and, by maintaining in force certain administrative practice, Norway has failed to fulfil its obligations under Articles 22 and 23 of Directive 2013/36/EU (CRD) and Articles 57 to 59 of Directive 2009/138/EC /Solvency II).

- The Application concerns what the Authority claims to be Norway's incorrect implementation and application of the two abovementioned directives. The directives regulate access to the activity and the prudential supervision of credit institutions and insurance undertaking. The Authority submits that the procedures for the prudential assessment by competent authorities are fully harmonized by CRD and Solvency II directives.
- By the first plea-in-law, it is claimed that by allowing competent authorities to take into consideration other assessment criteria than those exhaustively listed in CRD and Solvency II, Norway has incorrectly implemented Articles 22(8), 23(1) and (2) of CRD and Articles 58(7), 59(1) and (2) of Solvency II into Norwegian law, breaching those provisions.
- By the second plea-in-law, it is claimed that by maintaining an administrative practice which requires the approval of the national authority whenever a person acquires 25% or more of voting rights or capital in credit institutions and insurance undertakings and which, only with limited exceptions, results in the rejection of an application with no consideration of its merits, Norway has failed to fulfil its obligations under Articles 22 and 23 of CRD and Articles 57 to 59 of Solvency II.
- The Authority delivered two separate reasoned opinions on 19 July 2023. The deadline for Norway to reply to the reasoned opinions expired on 19 September 2023.
- The Authority maintains that when that deadline expired, Norway was in breach of its obligations under EEA law.