

ORDER OF THE PRESIDENT OF THE COURT

14 May 1997

(Withdrawal of a request for an Advisory Opinion)

In Case E-4/96,

**Fridtjof Frank Gundersen v Oslo kommune (Oslo municipality)**

With respect to a request for an Advisory Opinion by Oslo byrett (Oslo City Court) by order of that court of 14 May 1996 in the case *Fridtjof Frank Gundersen v Oslo kommune (Oslo municipality)*,

THE PRESIDENT OF THE COURT

makes the following

ORDER

A request was made to the EFTA Court by an order of 14 May 1996 by Oslo byrett (Oslo City Court), Norway, which was received at the Court Registry on 24 May 1996, for an Advisory Opinion in the case of *Fridtjof Frank Gundersen v Oslo kommune* (Oslo municipality), on the following questions:

"1. Assuming that there is differential treatment in Norway in the marketing of beer with an alcohol content of lower than 4.75% by volume as well as red wine, white wine and rosé wine, as stated above by the plaintiff (and not contested by the defendant), is this differential treatment in violation of **Article 4 EEA** which contains a general prohibition on discrimination, and/or **Article 11 EEA** which prohibits quantitative restrictions on imports and measures having equivalent effect, and/or **Article 16 EEA** in that A/S Vinmonopolet must be considered as being used to discriminate against goods from the other EEA countries with respect to conditions for sale?

In that connection, are beer with an alcohol content of lower than 4.75% by volume, red wine, white wine and rosé wine to be considered to be competing products on the same market under the EEA Agreement?

2. Section 1-1 of the *Alcohol Act (Alkoholloven)* states the purpose of the Act:

"The purpose of regulating the import and sale and serving of alcoholic beverages pursuant to this Act is to curb to the greatest possible extent the harm to society and the individual that may result from the consumption of alcoholic beverages. To this end the Act aims at limiting the consumption of alcoholic beverages."

High prices and limited availability are both considered to be important alcohol policy instruments for limiting the sale and consumption of alcohol in Norway, and are considerations behind the provision in section 3-1 of the Alcohol Act to the effect that spirits, wine and strong beer, i.e., beer containing over 4.75% alcohol by volume, may only be sold by A/S Vinmonopolet with permission from the municipality.

If the EFTA Court finds that the above-mentioned differential treatment in marketing is covered by Article 11 EEA, does Article 13 EEA enable the alcohol policy considerations behind section 3-1 of the Alcohol Act to justify an exception to Article 11?"

In letter of 18 June 1996, Oslo byrett asked the Court to stay the proceedings in the case. The President made the following decision on 27 June 1996:

"In accordance with request from Oslo byrett the proceedings in Case E-4/94 *Gundersen v Oslo kommune* are stayed pending the outcome of the appeal against the order of Oslo byrett to make reference for an advisory opinion."

On 22 April 1996 Oslo byrett decided to withdraw its request in order to replace it with a new request, which was received at the Court Registry on 29 April 1997 and has been registered as Case E-1/97.

Oslo byrett has withdrawn its request in the present case and costs have not been claimed or incurred before the EFTA Court.

On those grounds,

THE PRESIDENT OF THE COURT

hereby orders:

**Case E-4/96 is removed from the Register.**

Luxembourg, 14 May 1997

Per Christiansen  
Registrar

Bjørn Haug  
President