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Judgment in Case E-1/05 *EFTA Surveillance Authority v The Kingdom of Norway*

Failure of a Contracting Party to fulfil its obligations under the EEA-Agreement

In a judgment delivered today, the EFTA Court ruled, that the requirement in Norwegian insurance law that costs which accrue when life assurance contracts are entered into have to be charged and paid no later than the date when the first premium payment is due, is incompatible with the freedom to provide life insurance services as stipulated in Article 33 of Directive 2002/83/EC on life insurance of 5 November 2002, as incorporated into the EEA Agreement.

The EFTA Court held that the Kingdom of Norway has failed to fulfill its obligations pursuant to the Directive by maintaining in force the contested requirement which is contained in Section 3(2) of the Norwegian Regulation of 21 November 1989 No 1167 and Section 10 of the Norwegian Regulation of 22 September 1995 No 827.

The EFTA Surveillance Authority held that the requirement prevents consumers in Norway from entering into contracts with life assurance providers that distribute the payment of contract completion costs over a period of time, thereby limiting consumer choice. Likewise, the requirement limits the provision of assurance services since undertakings authorized in other Contracting Parties are hindered from marketing such contracts in Norway.

It was not disputed before the Court that the requirement might amount to a restriction. However, the Norwegian Government submitted that it was justified on grounds of the general good in accordance with Article 33 of the Directive.

According to the Norwegian Government, earlier practice of spreading the costs for completing a life assurance contract over a longer period of time had meant that consumers were faced with high contract completion costs debts upon transfer or termination of their assurance contracts. The Norwegian Government submitted that the contested requirement was both suitable and necessary to obtain the objective of consumer protection through increased awareness of the price for concluding life assurance contracts.

The Court did not concur with the Norwegian Government. It held that the rules at issue may be considered suitable for achieving the objective pursued. However, the Court considered that the rules were disproportionate. In that regard the Court noted that Directive 2002/83/EC aims at protecting consumers through choice based on information. The Court held that consumers can be provided with necessary information about the essential elements of the commitment in order to enable them to make an informed choice by less restrictive means, for example by requesting life assurance providers to supply more specific information.

The full text of the judgment may be found on the EFTA Court web site:
www.eftacourt.lu

This press release is not an official document. Please note that the Court may not comment of the case.