

EFTA COURT

Action brought on 13 July 2018 by the EFTA Surveillance Authority against the Kingdom of Norway

(Case E-1/18)

An action against the Kingdom of Norway was brought before the EFTA Court on 13 July 2018 by the EFTA Surveillance Authority, represented by Claire Simpson, Erlend M. Leonhardsen, Catherine Howdle and Carsten Zatschler, acting as Agents of the EFTA Surveillance Authority, 35 Rue Belliard, B-1040 Brussels.

The EFTA Surveillance Authority requests the EFTA Court to:

- 1. Declare that, by maintaining in force provisions such as Section 14-13 first, second and third paragraphs and Section 14-14 first paragraph of the National Insurance Act, which render the father's entitlement to parental benefits dependent on the mother's situation whereas the mother's entitlement is not dependent on the father's situation, Norway has failed to fulfil its obligations under Article 14(1)(c) of the Act referred to at point 21b of Annex XVIII to the EEA Agreement (Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)).**
- 2. Order the Kingdom of Norway to pay the cost of these proceedings.**

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

- This case concerns how parental benefits are paid in Norway. Parental benefits are benefits payable to parents (mothers and fathers) during a period of leave in connection with the birth or adoption of a child.
- The EFTA Surveillance Authority considers that some of the rules on parental benefits in Norway directly discriminate against fathers. In short, under these rules, whether the father gets parental benefits in whole, in part – or at all – depends on whether the mother is or has been working (or takes part in similar activities). In contrast, the mother's rights to such benefits are independent of the father's activities.

- The EFTA Surveillance Authority considers that mothers and fathers are in comparable situations when it comes to bringing up children, and that the different treatment in the Norwegian parental benefit rules unlawfully discriminates against fathers on grounds of sex, breaching Article 14(1)(c) of Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

- The Authority further considers that such discrimination cannot be justified under Article 3 of Directive 2006/54/EC as a 'positive action' to help mothers achieve equality in working life, nor on any other grounds.