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Brussels, 17 July 2012
Cases No: 3040, 59007,
62109
Event No: 642018

EFTA SURVEILLANCE
AUTHORITY

Ministry of Agriculture and food
PO. BOX 8007 Dep.
0030 Oslo
Norway

Dear Sir/Madam

Subject: Closure of three complaint cases against Norway in the field of free movement of capital (personal residence requirements)

In the years 2003-2007, the EFTA Surveillance Authority (“the Authority”) received three complaints against Norway concerning the imposition of personal residence requirements when certain categories of agricultural real estate are acquired.

Having examined the complaints the Authority has decided not to pursue the cases further.

This decision is, however, without prejudice to any future decision by the Authority to open a new case on this issue or on a related issue. Such a decision could be taken, for example, in the light of new information concerning the implementation, interpretation or application of the national measures under consideration, receipt of a new complaint, or developments in EEA or EU law.

The decision to close the cases is attached to this letter for your information (Event No 637527).

Yours faithfully,



Ólafur Jóhannes Einarsson
Director
Internal Market Affairs Directorate

Cases No: 3040, 59007, 62109
Event No: 637527
Dec. No: 279/12/COL



EFTA SURVEILLANCE
AUTHORITY

EFTA SURVEILLANCE AUTHORITY DECISION

of 11 July 2012

closing three complaint cases against Norway in the field of free movement of capital concerning personal residence requirements for the acquisition of agricultural land

THE EFTA SURVEILLANCE AUTHORITY

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, in particular Article 31 thereof,

Whereas:

In the years 2003-2007, the EFTA Surveillance Authority (“the Authority”) has received three complaints against Norway concerning the imposition of personal residence requirements when certain categories of agricultural real estate in Norway are acquired.

In those complaints, it was alleged that the Norwegian rules in the Act on Concession for the Acquisition of Real Estate (the Concession Act) (*Lov 28. november 2003 nr. 98 om konsesjon for erverv av fast eiendom*) were in breach of the free movement of capital, as provided for in Article 40 of the EEA Agreement.

Norway has provided the Authority with information regarding the three complaint cases subsequently opened (3040, 59007 and 62109) by letters of 15 April 2005 (Event No: 317117), 30 September 2005 (Event No: 345041), 8 November 2010 (Event No: 576690), 17 March 2011 (Event No: 591078) and 3 February 2012 (Event No: 623697). Furthermore, Norway has, on a regular basis, provided the Authority with statistical information from the KOSTRA monitoring system on concession cases.

In addition, the cases have been discussed at the package meetings in Oslo on 9-10 November 2005 and on 10-11 November 2011.

In its correspondence with the Authority, Norway has maintained that the national rules on personal residence requirements pursue the objectives of settlement, an overall resource management and of the cultivated landscape *cf.* Section 11(2) of the Concession Act.

Prior to the issuing of guidelines on the application of the Concession Act in Circular M-5/2003¹, a personal residence requirement was applied more or less automatically as a pre-condition for concession. Moreover, in Section 11(2) of the Concession Act, adopted in 2009, and the guidelines issued in Circular M-2/2009² it is now emphasised that a personal residence requirement may no longer be imposed as an automatic condition for concession. Section 8 of the Circular contains explanations on the application of Sections 9 and 11 of the Concession Act. According to Section 8 of the Circular, when a decision is taken on whether a concession is to be granted for the acquisition of agricultural land, more emphasis shall be placed on an individual assessment of whether it is necessary to set a condition of personal residence requirement on the acquirer. Furthermore, it is emphasised in Section 8 of the Circular, as also confirmed by the statistics from the KOSTRA monitoring system, that there exists a real possibility to get concession without the acquirer residing on the property himself.

In light of the above, the Authority has decided to close these cases.


HAS ADOPTED THIS DECISION:

The three cases arising from complaints against Norway for alleged breaches by that State of Article 40 of the EEA Agreement are hereby closed.

Done at Brussels, 11 July 2012

For the EFTA Surveillance Authority


Oda Helen Sletnes
President


Sabine Monauni-Tömördy
College Member

¹ Circular M-5/2003. The guidelines contain explanatory notes. They are issued by the Ministry of Agriculture and addressed to, *inter alia*, the municipalities, the counties and the registration authorities.

² Subsequent to the amendments of the Concession Act of 19 June 2009, Circular 2/2009 of 24 June 2009 replaced Circular M-5/2009.