

Case No: 63148
Event No: 464724
Decision No: 166/08/COL

EFTA SURVEILLANCE AUTHORITY DECISION
of 12 MARCH 2008
on alleged state aid with regard to the Norwegian reindeer slaughter industry
(Norway)

THE EFTA SURVEILLANCE AUTHORITY¹,

Having regard to the Agreement on the European Economic Area², in particular to Articles 8 and 61 to 63 and Protocol 3 and 26 thereof,

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice³, in particular Articles 5 and 24 thereof,

Having regard to Article 1(3) of Part I and Article 4(2) of Part II of Protocol 3 to the Surveillance and Court Agreement,

Whereas:

1. Facts

On 11 October 2007 (Event No 446496), the Authority received a complaint concerning possible state aid granted to the Norwegian reindeer slaughter industry. In the complaint, it was claimed that state aid amounting to approximately NOK 7,2 million (approximately EUR 910 000) was granted to the reindeer slaughtering company Boalvvir BA from “Reindriftens Utviklingsfond”⁴ between July 2004 and November 2006. The grants were approved by the Ministry of Agriculture and Food. The complainant has not submitted information indicating that Boalvvir BA is involved in other activities than reindeer slaughtering.

By letter dated 16 October 2007 (Event No 447285), the Authority acknowledged the receipt of the complaint.

By letter dated 6 December 2007 (Event No 456147), the Authority informed the complainant that the Authority’s Competition & State Aid Directorate⁵ had reached the preliminary conclusion that the complaint concerned products which fall outside the scope of the EEA Agreement, and that the Authority therefore did not have competence to act on the matter. The complainant was advised that unless he submitted further information

¹ Hereinafter referred to as “the Authority”.

² Hereinafter referred to as “the EEA Agreement”.

³ Hereinafter referred to as “the Surveillance and Court Agreement”.

⁴ “The development fund for reindeer husbandry”.

⁵ Hereinafter referred to as “the CSA”.

which could convince the CSA that the measure complained about was within the scope of the EEA Agreement within two months from the receipt of the letter, the CSA would propose to the College of the Authority that the case be closed without further action.

The complainant did not respond to the Authority's letter of 6 December 2007.

2. Assessment

The Authority notes that for the state aid provisions in Articles 61 to 63 of the EEA Agreement to apply, the state aid must be granted to undertakings involved in the production of products which fall within the product coverage of the EEA Agreement.

Article 8(3) of the EEA Agreement provides that

"Unless otherwise specified, the provisions of this Agreement shall apply only to:

(a) products falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System, excluding the products listed in Protocol 2;

(b) products specified in Protocol 3, subject to the specific arrangements set out in that Protocol."

Article 8(3) of the EEA Agreement limits the material scope of the application of the EEA Agreement to the above products, unless otherwise specified in the Agreement. Reindeers and products processed from reindeers, in so far as they do not fall under Chapters 25 to 97 of the Harmonized Commodity Description and Coding System (HS) or are specified in Protocol 3 to the EEA Agreement, fall outside the general scope of the application of the Agreement.

The alleged aid recipient in the present case is a company involved in the slaughtering of reindeers. The products produced by reindeer slaughtering companies fall under Chapters 02, 05, 15, 16 and 23 of the Harmonized Commodity Description and Coding System (HS) and are thus outside the product coverage of the EEA Agreement. Nor are the products covered by Protocol 3 to the EEA Agreement.

Hence, the complaint concerns alleged state aid to companies involved in the production of products which fall outside the product coverage of the EEA Agreement, as defined in Article 8(3) of the EEA Agreement.

On the basis of the above, the Authority has reached the conclusion that the subject matter of the complaint falls outside the scope of the EEA Agreement, and that therefore, the Authority has no competence to assess any potential state aid involved.⁶

3. Conclusion

The Authority has therefore concluded that there are evidently no grounds to pursue the case further.

Against this background, the Authority has decided to close the case.

⁶ Cf. the Authority's Decision 176/05/COL of 15 July 2005 concerning alleged state aid in the fisheries sector.

HAS ADOPTED THIS DECISION:

Article 1

The EFTA Surveillance Authority considers that the grants to the Norwegian reindeer slaughter industry do not constitute state aid within the meaning of Article 61 of the EEA Agreement.

Article 2

This Decision is addressed to the Kingdom of Norway.

Article 3

Only the English version is authentic.

Done at Brussels, 12 March 2008

For the EFTA Surveillance Authority

Per Sanderud
President

Kurt Jaeger
College Member