

Case No: 94480
Document No: 1577042
Decision No: 011/26/COL

EFTA SURVEILLANCE AUTHORITY DECISION

of 4 February 2026

closing a complaint case arising from an alleged failure by Norway to comply with Article 17 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (“GDPR”) by adopting judicial decisions – by the Sør-Rogaland District Court and the Norwegian High Court – adjudicating that it follows from Art. 2 (1) GDPR that the Regulation applies to the processing of personal data wholly or partly by automated means, and to processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system, but not to other situations

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:

1 Introduction

On 22 August 2025, the EFTA Surveillance Authority (“the Authority”) received a complaint against Norway concerning an alleged violation of Article 17 GDPR by the Sør-Rogaland District Court and the Norwegian High Court.

According to the complainant, the Sør-Rogaland District Court and the Norwegian High Court misinterpreted Article 17 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the General Data Protection Regulation, “GDPR”). The complaint alleges that both the Sør-Rogaland District Court and the Norwegian High Court adjudicated that it follows from Art. 2 (1) GDPR that the Regulation applies to the processing of personal data wholly or partly by automated means, and to processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system, but not to other situations. On this basis, the courts both held that the facts in the complainant’s case did not involve wholly or partly automated processing of data. Rather, everything entered “manually” by a party who defamed the complainant online was excluded from the scope of this provision of the GDPR, and the website could not be required to be deleted pursuant to Article 17 GDPR.

Article 5(1)(a) of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“SCA”) confers on the Authority a mandate to ensure the fulfilment by the EEA EFTA States of their obligations under the EEA

Agreement. To this end, Article 5(2) SCA empowers the Authority to adopt a range of measures.

According to settled case-law of the EFTA Court, the Authority enjoys wide discretion in deciding whether and how to pursue proceedings against an EEA EFTA State. The Authority alone is competent to decide whether it is appropriate to bring proceedings under Article 31 SCA for failure to fulfil the obligations under the EEA Agreement.¹

Furthermore, any infringement proceedings brought by the Authority under Article 31 SCA should be concentrated so as to ensure the greatest impact for the functioning of the EEA Agreement, bearing in mind the resources of the Authority and having regard to alternative enforcement mechanisms available at national level.²

2 The Authority's assessment

On account of the Authority's limited resources and increased workload, and in an effort to pursue EEA law matters of principle in a timely manner, the Authority needs to exercise a strict prioritisation of the issues it examines. Such prioritisation aims to ensure clarity for complainants in line with the principle of good administration, and to increase the Authority's efficiency and effectiveness in discharging its duties under the EEA Agreement and SCA.

After examination of the case, the Authority is of the view that it is not possible to allocate the resources required to pursue an infringement procedure. In the light of the above, this case cannot be prioritised.

By letter of 28 October 2025, the Internal Market Affairs Directorate informed the complainant of its intention to propose to the Authority that the case be closed. The complainant was invited to submit any observations on the Internal Market Affairs Directorate's assessment of the complaint or present any new information by 28 November 2025.

By an email of 17 November 2025, the complainant replied to this letter. The complainant emphasised that the case involves matters of principle for the whole of Norway, and that it would not require an excessive use of resources on the part of the Authority. However, the Authority does not consider that this reply alters the conclusions set out in the letter of 28 October 2025.

It is emphasised that the Authority's view as set out in the present Decision is a decision made upon policy grounds alone. It does not constitute any indication that the Authority considers that either national law or administrative practice are in compliance with EEA law.

Moreover, the present Decision in no way restricts the Authority's future actions concerning the legal, administrative and/or factual issues arising in or from the case closed.

¹ See, for example, Order of the EFTA Court of 23 October 2013 in Case E-2/13, *Bentzen Transport v EFTA Surveillance Authority*, EFTA Ct. Rep [2013] p. 802, point 40, and further, the Order of the EFTA Court in Case E-13/10 *Aleris Ungplan AS v ESA* [2011] EFTA Ct. Rep. 3.

² As the European Commission has stated: "*Certain categories of cases can often be satisfactorily dealt with by other, more appropriate mechanisms at EU and national level. This applies in particular to individual cases of incorrect application not raising issues of wider principle, where there is insufficient evidence of a general practice, of a problem of compliance of national legislation with EU law or of a systematic failure to comply with EU law. In such cases, if there is effective legal protection available, the Commission will, as a general rule, direct complainants in this context to the national level.*" See "*EU law: Better results through better application*" (2017/C 18/02) paragraph 3, sub para 9. The same principles are applicable *mutatis mutandis* to the EEA legal order.

3 Conclusion

In the context outlined above, the Authority concludes, in the exercise of its discretion pursuant to Article 31 SCA, not to pursue the case further.

HAS ADOPTED THIS DECISION:

The complaint case arising from an alleged failure by Norway to comply with Article 17 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the General Data Protection Regulation, “GDPR”), is hereby closed.

For the EFTA Surveillance Authority,

Arne Røksund
President

Árni Páll Árnason
College Member

Nuscha Wiczorek
Responsible College Member

Melpo-Menie Joséphidès
Countersigning as Director,
Legal and Executive Affairs

This document has been electronically authenticated by Arne Roeksund, Melpo-Menie Josephides.