

Case No: 81012
Document No: 1326112
Decision No: 010/23/COL

EFTA SURVEILLANCE AUTHORITY DECISION

of 1 March 2023

closing a complaint case arising from an alleged failure by Norway to comply with Article 28 of the EEA Agreement and Directive 2004/38/EC by not ensuring the right for third-country national family members to work while awaiting the issuance of a residence card

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:

On 7 August 2017, the EFTA Surveillance Authority (“the Authority”) received a complaint against Norway alleging that Norway did not in practice ensure the possibility for third-country national (“TCN”) family members of returning Norwegian nationals to work while awaiting the issuance of a residence card, as provided under Article 28 of the EEA Agreement and Directive 2004/38/EC¹ (“Directive 2004/38” or “the Directive”).

On 17 August 2017, the Internal Market Affairs Directorate of the Authority (“the Directorate”) sent a letter of acknowledgement to the complainant, explaining that the issues raised in the complaint were closely connected with the issues assessed by the Directorate in an own-initiative case (*Case 80333 – The issuance of tax cards to EEA nationals and third-country national family members*) and that, therefore, the Directorate intended to further pursue those issues in the context of that case solely.²

Since then, the Directorate has engaged in extensive correspondence with the Norwegian Government to further assess whether Norway, in practice, hinders or in any manner restricts the eligible EEA nationals and their TCN family members from moving to Norway from another EEA State, and, when applicable, to work or engage in another lawful activity from the day of arrival, contrary to Article 28 of the EEA Agreement and Directive 2004/38.

Based on its initial assessment, the Directorate identified a few issues that indicated that the internal procedures were not fully in line with EEA law. However, in the course of the assessment of the case, the Norwegian Government has made various amendments to its internal rules, routines and practices, as well as an amendment to the National

¹ Act referred to at point 3 of Annex VIII to the EEA Agreement (Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, OJ L 158, 30.4.2004, p. 77–123) as adapted to the EEA Agreement by Protocol 1 thereto.

² Document No 869444.

Register Regulation of 14 July 2017 No 1201.³ According to the Norwegian Government, these measures are all designed to ensure that EEA nationals and their TCN family members can exercise their rights to work from the day of arrival in Norway.

Following a detailed assessment of the aforementioned measures, the Directorate concluded that the issues raised in Case 80333 were sufficiently addressed and, therefore, decided that the case be closed.⁴

By letter of 17 October 2022, the Directorate informed the complainant of its intention to propose to the Authority that this case be closed.⁵ The complainant was invited to submit any observations on Directorate's assessment of the complaint or present any new information by 17 November 2022.

The complainant did not reply to that letter.

There are, therefore, no grounds for pursuing this case further.

HAS ADOPTED THIS DECISION:

The complaint case arising from an alleged failure by Norway to comply with Article 28 of the EEA Agreement and Directive 2004/38/EC, is hereby closed.

For the EFTA Surveillance Authority

Arne Røksund
President

Stefan Barriga
Responsible College Member

Árni Páll Árnason
College Member

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

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

³ Forskrift til folkeregisterloven fra 14. juli 2017 nr 1201 (Folkeregisterforskriften).

⁴ Document No 1253640.

⁵ Doc No 1271021.