

Case No: 76958
Event No: 747346
Decision No: 69/15/COL

The logo of the EFTA Surveillance Authority, featuring the text "EFTA SURVEILLANCE AUTHORITY" in white capital letters on a dark blue rectangular background.

EFTA SURVEILLANCE AUTHORITY DECISION

of 5 March 2015

**to initiate proceedings pursuant to Article 2(1) of Chapter III of Protocol 4 to the
Surveillance and Court Agreement**

(Case No 76958 – Color Line/Sandefjord Municipality)

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 2(1) and (2) of Chapter III and Article 11(6) of Chapter II of Protocol 4 thereto,

WHEREAS:

- (1) On 14 December 2011, the Authority found, in Decision No. 387/11/COL, that Color Line AS and Color Group AS had infringed Article 53 and Article 54 of the Agreement on the European Economic Area through the long-term exclusive rights enjoyed by Color Line AS pursuant to the harbour agreement contracted with the Municipality of Strömstad in the period from 1 January 1994 for Color Line AS and 1 October 1998 for Color Group AS until 20 December 2005. A fine of EUR 18.811 million was imposed jointly and severally on Color Line AS and Color Group AS.
- (2) The Authority ordered Color Line AS and Color Group AS to refrain from repeating any act or conduct described above, and from any act or conduct in the future, which might have the same or equivalent object or effect.
- (3) In that decision, the Authority did not take a position on whether the long-term harbour agreements between Sandefjord Municipality and Color Line AS of 1991 (through its predecessor Scandi Line AS) and 2006 infringed Articles 53 and/or 54 EEA.
- (4) The Authority has continued to keep the market for the provision of short-haul passenger ferry services with tax-free sales between Norway and Sweden under

surveillance, and has *inter alia* issued requests for information to Color Line AS, the Municipality of Sandefjord in Norway, and the Municipality of Strömstad in Sweden in April 2014.

- (5) An examination of the information in the Authority's possession indicates that Sandefjord Municipality may have infringed Articles 53 and/or 54 EEA.
- (6) The Authority intends to investigate whether Sandefjord Municipality has infringed Articles 53 and/or 54 EEA by entering into and/or upholding harbour agreements with Color Line AS and/or Color Transport AS and/or Color Group AS, granting them long-term exclusive access, and/or protection for their sailing schedule.
- (7) The opening of proceedings means that the Authority will examine the case as a matter of priority. It does not signify that the Authority has made a finding of infringement or prejudice in any way the existence of an infringement or the outcome of the investigation. If confirmed, the conduct at issue may constitute an infringement of Articles 53 and/or 54 EEA.

HAS ADOPTED THIS DECISION:

Article 1

Proceedings are hereby initiated concerning possible infringements by Sandefjord Municipality of Articles 53 and/or 54 of the Agreement on the European Economic Area by:

- entering into and/or upholding harbour agreements with Color Line AS and/or Color Transport AS and/or Color Group AS, granting them long-term exclusive access, and/or protection for their sailing schedule to the potential detriment of competition in respect of the provision of short-haul passenger ferry services with tax-free sales between Norway and Sweden.

Article 2

The national competition authorities of the EEA EFTA States are relieved of their competence to apply the EEA competition rules to the practices referred to in Article 1.

Article 3

1. The initiation of these proceedings will be made public by way of a notice on the Authority's website and the issuing of a press release.

2. Sandefjord Municipality shall be informed of this decision.

Done at Brussels, 5 March 2015,
For the EFTA Surveillance Authority,



Oda Helen Sletnes
President



Helga Jónsdóttir
College Member