V

(Announcements)

COURT PROCEEDINGS

EFTA COURT

Action brought on 19 June 2012 by the EFTA Surveillance Authority against the Kingdom of Norway

(Case E-6/12)

(2012/C 360/05)

An action against the Kingdom of Norway was brought before the EFTA Court on 19 June 2012 by the EFTA Surveillance Authority, represented by Xavier Lewis and Fiona M. Cloarec, acting as Agents of the EFTA Surveillance Authority, 35 Rue Belliard, 1040 Brussels, Belgium.

The EFTA Surveillance Authority requests the EFTA Court to declare that:

1. by maintaining in force the administrative practice of not assessing whether a child, living together with another parent outside Norway, is mainly dependent on the parent who is living in Norway and separated from the other parent, the Kingdom of Norway is in breach of Article 1(f)(i), second sentence, in conjunction with Article 76 of the Act referred to at point 1 of Annex VI to the Agreement on the European Economic Area (Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, as amended), as adapted to the EEA Agreement by Protocol 1 thereto;

2. the Kingdom of Norway bears the costs of the proceedings.

Legal and factual background and pleas in law adduced in support:

— Chapter 7 of Regulation (EEC) No 1408/71 regulates the coordination of the grant of family benefits in cross-border cases.

— Article 1(f)(i) of Regulation (EEC) No 1408/71 defines the term 'member of the family' as 'any person defined or recognised as a member of the family or designated as a member of the household by the legislation under which benefits are provided (…); where, however, the said legislations regard as a member of the family or a member of the household only a person living under the same roof as the employed or self-employed person or student, this condition shall be considered satisfied if the person in question is mainly dependant on that person. (…)'.

— The EFTA Surveillance Authority submits that under Article 4(1)(h) of Regulation (EEC) No 1408/71, family benefits are benefits intended to enable one of the parents to devote himself or herself to the raising of a young child and designed to remunerate the service of bringing up a child, to meet other costs of caring for and raising a child and, as the case may be, to mitigate the financial disadvantages entailed in giving up income from an occupational activity.

— The EFTA Surveillance Authority claims that the purpose of Articles 73 and 74 of Regulation (EEC) No 1408/71 is to guarantee the family members of workers, residing in another EEA State, the grant of family benefits provided for by the applicable legislation of the State to which the worker is affiliated.

— The EFTA Surveillance Authority submits that the administrative practice, according to which, in cross-border cases, the Norwegian authorities (namely the Norwegian Labour and Welfare Service, NAV) assesses whether the parent working in Norway has his regular abode with his family in the other EEA State during the periods when he is not working in Norway, and without assessing whether the child is 'mainly dependant on' the parent working in Norway — is in breach of Article 1(f)(i), second sentence, in conjunction with Article 76 of Regulation (EEC) No 1408/71.