



European
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COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

20 October 2015

Case Document No. 13

Bedriftsforbundet v. Norway
Complaint No. 103/2013

**SUPPLEMENTARY OBSERVATIONS
BY THE GOVERNMENT**

Registered at the Secretariat on 29 September 2015



ATTORNEY GENERAL – CIVIL AFFAIRS

To the European Committee of Social Rights

Oslo, 29 September 2015

SUPPLEMENTARY OBSERVATIONS ON THE MERITS

SUBMITTED BY

THE GOVERNMENT OF NORWAY

represented by Pål Wennerås, advocate at the Attorney General of Civil Affairs and acting agent, Margit Tveiten, Director General at the Ministry of Foreign Affairs, and Eli Mette Jarbo, Deputy Director General at the Ministry of Labour, submitted pursuant to Article 7§1 of the Additional Protocol to the European Social Charter providing for a system of collective complaints and Rule 31§1 of the Rules of the European Committee of Social Rights, in

COMPLAINT No. 103/2013 Bedriftsforbundet v. Norway

concerning a claim that Norwegian authorities have not ensured satisfactory application of Article 5 of the Revised European Social Charter.

ATTORNEY GENERAL – CIVIL AFFAIRS

1. Reference is made to Bedriftsforbundet's letter of 7 September 2015, notified to the Government by the Secretariat General on 17 September 2015.
2. The Government recalls at the outset the Rules of the European Committee on Social Rights, Chapter III, Rule 31(4). Without prejudice to those provisions, the Government will briefly comment on the latest submissions by the complainant.
3. The complainant refers initially to a legal dispute between itself and the Norwegian Transport Workers' Union, in which the Supreme Court has requested an advisory opinion from the EFTA Court on EEA rules concerning competition and the internal market. Furthermore, the plaintiff attaches written submissions to the EFTA Court from the European Commission and the EFTA Surveillance Authority, respectively. With reference to a quote from the Commission's submissions regarding the competition rules in Article 54 EEA, the complainant asserts that "[t]he organizational duty has led to a situation with an abuse of a dominant position at Norwegian ports".
4. It should first be observed that the written submissions by the European Commission and the EFTA Surveillance Authority in a pending case are, as far as the Government understands, documents that the parties to the case may not render public without consent. Leaving this procedural irregularity aside, the Government observes next that neither the European Commission's nor the EFTA Surveillance Authority's submission deals with the issue of freedom of association. The matter before the EFTA Court concerns in essence whether Article 2 of the Framework Agreement, providing for priority of engagement for dockworkers and thereby implementing ILO Convention No 137 on dock work, is unlawful under EEA rules on freedom of competition and establishment. Hence, that case and the submissions rendered do not concern freedom of association, as the complainant alludes to, but touches inter alia upon the hierarchy of norms and conflicting interests. The Government will not comment upon such issues in the context of this case.

Oslo, 29 September 2015

THE ATTORNEY GENERAL (CIVIL AFFAIRS)



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