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E-0003921/2021

Answer given by Mr Schmit
on behalf of the European Commission
(17.11.2021)

1. The European Court of Human Rights (ECtHR) held in its judgment in the Case 45487/17¹ that there had been no violation of Article 11 (freedom of assembly and association) of the European Convention on Human Rights. It found that the Supreme Court of Norway had remained within its wide margin of appreciation and had advanced relevant and sufficient grounds to justify its refusal to authorise the Norwegian Transport Workers' Union's boycott in opposition to Holship Norge AS employing dockworkers outside a collective framework agreement which had pertained in the port of Drammen. However, the Court emphasised that, from the perspective of Article 11, the European Economic Area freedom of establishment is not a counterbalancing fundamental right to freedom of association but rather one element, albeit an important one, to be taken into consideration in the assessment of proportionality. This judgment does not establish a principle that the freedom of association takes precedence over economic freedoms in the single market.

2. The Commission monitors that Member States' transposition of EU legislation into national law and their adherence to single market rules respects the fundamental right of freedom of assembly and association, whenever the Member States act within the scope of EU law, and takes action where necessary.

3. Negotiations on the EU's accession to the European Convention on Human Rights are currently ongoing. The negotiations focus on how to address the concerns raised by the Court of Justice in its Opinion 2/13 of 18 December 2014². The aim is to make EU accession to the European Convention on Human Rights legally possible in a manner that strengthens the protection of fundamental rights in Europe.

¹ Norwegian Confederation of Trade Unions (LO) and Norwegian Transport Workers' Union (NTF) v. Norway.

² Opinion 2/13 of the Court of Justice of 18 December 2014, ECLI:EU:C:2014:2454.