EFTA COURT

Request for an Advisory Opinion from the EFTA Court by Borgarting Court of Appeal in the case of Sarpsborg Avfallsenergi AS and Others v the Norwegian State, represented by the Ministry of Climate and Environment

(Case E-2/25)

A request has been made to the EFTA Court by Borgarting Court of Appeal (*Borgarting Lagmannsrett*), which was received at the Court Registry on 17 February 2025, for an Advisory Opinion in the case of Sarpsborg Avfallsenergi AS and Others v the Norwegian State, represented by the Ministry of Climate and Environment (*Staten v/Klima- og miljødepartementet*), on the following questions:

1. **Must the first activity listed in Annex I to Directive 2003/87/EC be interpreted as meaning that all installations for the incineration of hazardous or municipal waste are excluded from the scope of the Directive, including those which do not have waste incineration as their sole purpose, provided that they are used for the incineration of other waste only marginally?**

2. **If question 1 is answered in the negative, what is to be the subject-matter of assessment and which factors are relevant in the assessment of the exception in the first activity listed in Annex I to the ETS Directive?**