

Administration and Activities of the Court

The Court took up its functions on 4 January 1994 in Geneva with five Judges nominated by Austria, Finland, Iceland, Norway, and Sweden. Due to the accession of Austria, Finland and Sweden to the European Union and the ratification of the EEA Agreement by Liechtenstein, the Court has, since mid-1995, consisted of three regular Judges and six ad hoc Judges. The Governments of the EEA/EFTA States decided on 14 December 1994 to move the seat of the Court to Luxembourg. Since 1 September 1996, the Court has had its premises at 1, Rue du Fort Thuengen, Kirchberg, Luxembourg.

As provided for in Article 14 of Protocol 5 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (ESA/Court Agreement), the Court remains permanently in session. It is open from Monday to Friday each week, except for official holidays

Provisions regarding the legal status of the Court are found in Protocol 7 to the ESA/Court Agreement, which bears the title: “Legal Capacity, Privileges and Immunities of the EFTA Court”. The Court has concluded a Headquarters Agreement with the Grand Duchy of Luxembourg, which was signed on 17 April 1996 and approved by the Luxembourg Parliament on 11 July 1996. This Agreement contains detailed provisions on the rights and obligations of the Court, its judges and staff, as well as privileges and immunities of persons appearing before the Court. Provisions for the internal administration of the Court are laid down in the Staff Regulations and Rules and in the Financial Regulations and Rules, as adopted on 4 January 1994, with later amendments.

The ESA/Court Agreement also contains provisions on the role of the Governments of the EEA/EFTA States in the administration of the Court. Article 43 of the Agreement stipulates that the Rules of Procedure shall be approved by the Governments. Article 48 of the Agreement states that

the Governments shall establish the annual budget of the Court, based on a proposal from the Court. A committee of representatives of the participating States was established and is charged with the task of determining the annual budget. This body, the ESA/Court Committee, is composed of the heads of the Icelandic, Liechtenstein and Norwegian Missions to the European Union in Brussels.

In 2017, the Court held regular meetings with the Court of Justice of the European Union and attended that Court's official functions. It also participated in the official functions of the Grand Duchy of Luxembourg. Representatives of EFTA and its Member States, of the EU judiciary and of other EU institutions, of the Luxembourg judiciary, the diplomatic corps and the Luxembourg civil society took part in the official functions of the Court. Ambassadors from the EFTA States, EU Member States and other countries have visited the Court. Law professors, assistants, researchers and students from several European universities, as well as trainees from the EFTA institutions in Brussels, Luxembourg, and Geneva, attended oral hearings and seminars on the Court's jurisdiction and case law.

The Judges, the Registrar and legal secretaries have given speeches on the EEA and the Court and on European integration in general in all the EFTA States, as well as in a number of other countries. The President and the Judges of the Court paid visits to the governments and the courts of the EEA/EFTA States.

In May 2017, the First Judicial Summit of the EFTA Pillar was held. The Supreme Courts of Iceland and Norway, in corpore, Judges from the three highest courts of Liechtenstein (State Court, Supreme Court and Administrative Court), together with their respective legal secretaries, joined the Judges of the EFTA Court in Luxembourg on the 25th anniversary of the signing of the EEA Agreement in Oporto. The three groups were headed by President Thorgeir Örlygsson of the Supreme Court of Iceland, President Hubertus Schumacher of the Supreme Court of Liechtenstein and Chief Justice Toril Marie Øie of the Supreme Court

of Norway. The Summit provided an opportunity for the exchange of views and experiences between Justices of all three EEA/EFTA States and their colleagues from the courts in Luxembourg and in Strasbourg.

In June, the Court held its annual Spring Conference on the subject “Thoughts on the future of Europe”. The conference was attended by more than 170 participants, including members of EFTA State supreme courts, the EFTA Surveillance Authority, and of EU institutions, including the Court of Justice of the European Union and the European Commission, as well as representatives from governments, business associations and trades unions, practitioners and academics. Following President Baudenbacher’s introductory speech, there were six high level presentations. During the opening session, Justice Wilhelm Matheson of the Supreme Court of Norway discussed “Fundamental Freedoms and Fundamental Rights; Challenges in Deciding the Holship Case (E-14/15) on the National Level”. Dr iur. Magnus Schmauch from the Finansinspektionen, Sweden’s financial supervisory authority, elaborated on the innovative architecture of financial regulation in the EEA, focusing on the new role of the EFTA Surveillance Authority and enhanced role of the EFTA Court under the European Securities and Markets Authority Regulation (Regulation (EU) No 1095/2010). Peter Freeman CBE QC (Hon), Chairman of the United Kingdom’s Competition Appeal Tribunal, opened the afternoon session by analysing in-depth recent EFTA Court competition law jurisprudence, focusing in particular on Cases E-15/10 (Norway Post), E-14/15 (Holship) and E-3/16 (Ski Taxi). The next two sessions addressed Brexit. Kassie Smith QC of Monckton Chambers, London, examined “Brexit and the EEA”, considering that the EEA is a workable framework for the UK post-Brexit. Professor Dr Heribert Hirte, a member of the Deutscher Bundestag, approached the topic of Brexit, giving a view from the Bundestag, and considered political and legal aspects of a withdrawal agreement and an ambitious future free trade agreement as well as matters of security and defence policy. The final session of the day was a speech by the former President of Iceland, H. E. Ólafur Ragnar Grímsson, now Chairman of the Arctic

Circle, who spoke on “The Future of Europe – A View from the North”, giving insight into the increased cognisance of the strategic importance of the Arctic from across the world.

In July, a delegation of the Swiss Federal Supreme Court led by President Ulrich Meyer paid an official visit to the Court. The visit provided an excellent opportunity for the exchange of views and experiences between colleagues, furthering the judicial dialogue, in both formal and convivial surroundings.

Under the auspices of the EFTA Court Lunchtime Talks, President Francis Delaporte, of the Administrative Court and Vice-President of the Constitutional Court of Luxembourg, gave a lunchtime talk entitled, “A national perspective on the preliminary reference procedure”; Dr. François Paychère, Judge at the Court of Auditors, Geneva, gave a lunchtime talk entitled, “Is there still a judge in the courtroom (or when artificial intelligence meets the judge)?”; and Dr Allan Tatham, Lecturer in EU Law, International Law and International Relations, Universidad CEU San Pablo, Madrid, gave a lunchtime talk entitled, “Without Fear or Favour: Ensuring the independence and accountability of regional judiciaries”.

The website of the Court is: www.eftacourt.int. It contains general information on the Court, its case law, reports for the hearing and press releases, publications, news, and the main legal texts governing the activities of the Court.

The Court’s e-mail address is: eftacourt@eftacourt.int