

The EFTA Court

EFTA Seminar on the EEA

Kjartan Bjarni Björgvinsson, LL.M

EU/EEA law.

- “perhaps the most complicated legal structure that has ever been devised and made effective in man’s effort to govern himself.”
- (Griswold, Law and Lawyers in the United States, The Common Law Under Stress, (1964) 238)

Role of the EFTA Court

- Jurisdiction laid out in Articles 31 to 39 SCA.
 - Infringement cases (Article 31 SCA)
 - Advisory Opinions (Article 34 SCA).
 - Direct actions (Article 36 SCA).

Relationship with the CJEU

- Similar jurisdiction with regard to the EFTA States as of the CJEU in relation to EU Member States.
 - Infringement cases (Article 258 TFEU)
 - Preliminary references (Article 267 TFEU).
 - Direct actions (Article 263 TFEU).

Perceptions of the EEA Courts.

- The CJEU is portrayed as:
 - Driven by political agendas.
 - Undemocratic.
 - Too powerful.
 - Biased in favour of EU institutions.

Perceptions of the EEA Courts.

- The EFTA Court is portrayed as:
 - Driven by political agendas.
 - Undemocratic.
 - Too small, with too few cases.
 - Even harsher on the States than the CJEU.

Institutional benefits of an independent EFTA Court.

- Shorter backlog - less risk of bias to the judicial docket.
- More effective use of the legal resources of the EFTA States.
- Role of CJEU is being changed radically.
- Composition.

What is new?

- Case E-12/11 - Asker Brygge AS v EFTA Surveillance Authority
(Judgment - 17 August 2012)
- Case E-9/11 - EFTA Surveillance Authority v The Kingdom of Norway
(Judgment - 16 July 2012)

What is new?

- Case E-13/11 - Granville Establishment v Volker Anhalt, Melanie Anhalt and Jasmin Barbaro, née Anhalt (Judgment - 25 April 2012)
- Case E-15/10 - Posten Norge AS v EFTA Surveillance Authority (Judgment - 18 April 2012)

What is new?

- Case E-7/11 - Grund, elli- og hjúkrunarheimili v Lyfjastofnun
(Judgment - 30 March 2012)
- Joined Cases E-17/10 & E-6/11 - The Principality of Liechtenstein and VTM Fundmanagement v EFTA Surveillance Authority (Judgment - 30 March 2012)

What is new?

- Case E-2/11 - STX Norway Offshore AS m.fl. v Staten v/ Tariffnemnda
(Judgment - 23 January 2012)
- Case E-1/11 - Norwegian Appeal Board for Health Personnel – appeal from A
Judgment - 15 December 2011

What is new?

- Case E-3/11 - Pálmi Sigmarsson v Seðlabanki Íslands
(Judgment - 14 December 2011)
- Case E-16/10 - Philip Morris Norway AS v Staten v/Helse- og omsorgsdepartementet (Judgment - 12 September 2011)