



How EEA law is interpreted

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General points on the EFTA Court

- Established as a part of the EEA cooperation
 - the judicial function
- Independent international Court with clearly defined competences
- Seated in Luxembourg

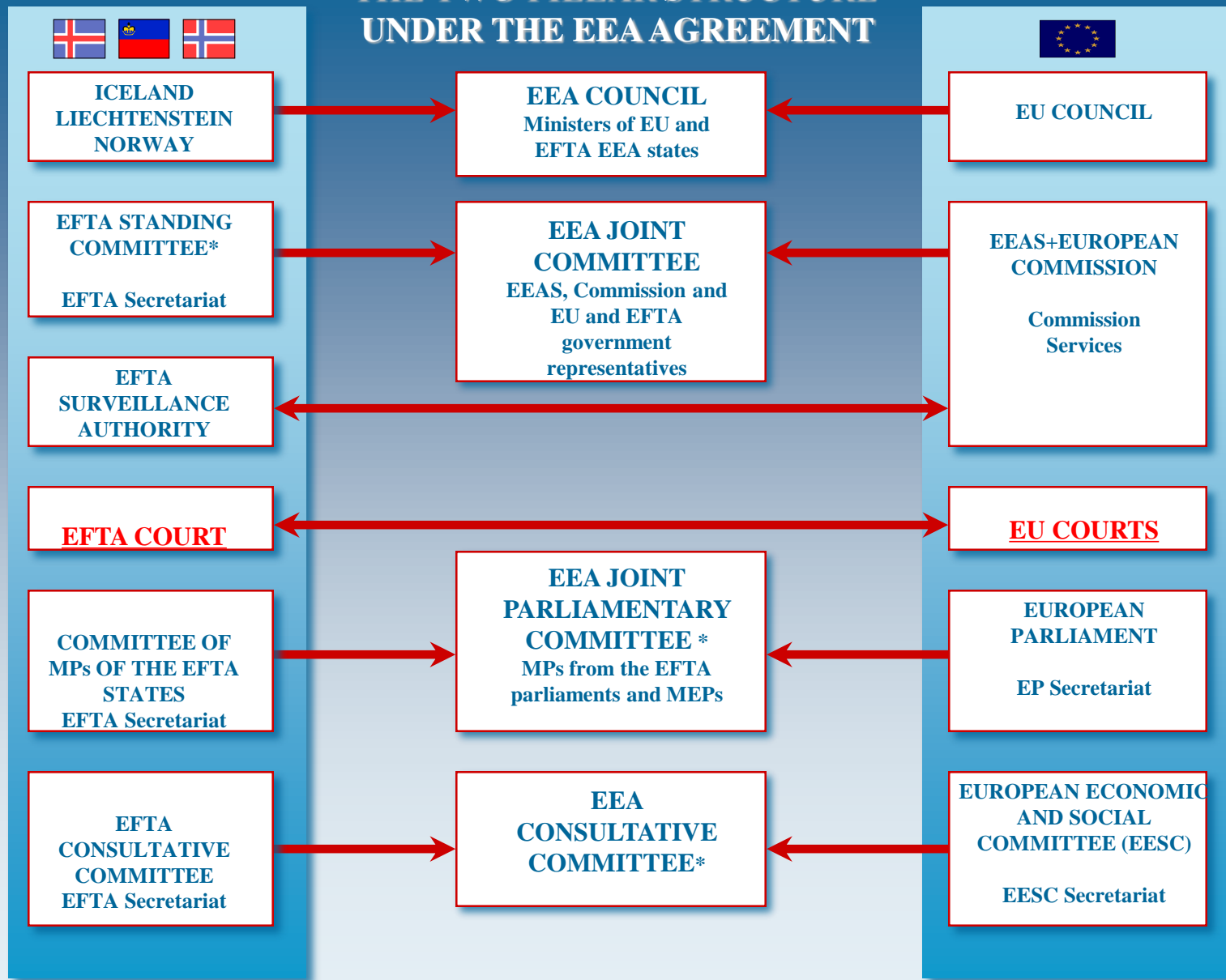


Two pillars – one agreement

- The EFTA Court interprets the EEA agreement in the EFTA states
- The EU Courts interpret the EEA agreement in the EU states



THE TWO PILLAR STRUCTURE UNDER THE EEA AGREEMENT



* Switzerland has observer status



Legal basis

- EEA agreement article 108(2): provides that the EFTA States shall establish the EFTA Court
- Surveillance and Court Agreement (SCA) article 27: the legal basis for the establishment of the EFTA Court
- Protocol 5 SCA: Statutes
- Rules of Procedure
- Instructions to the Registrar

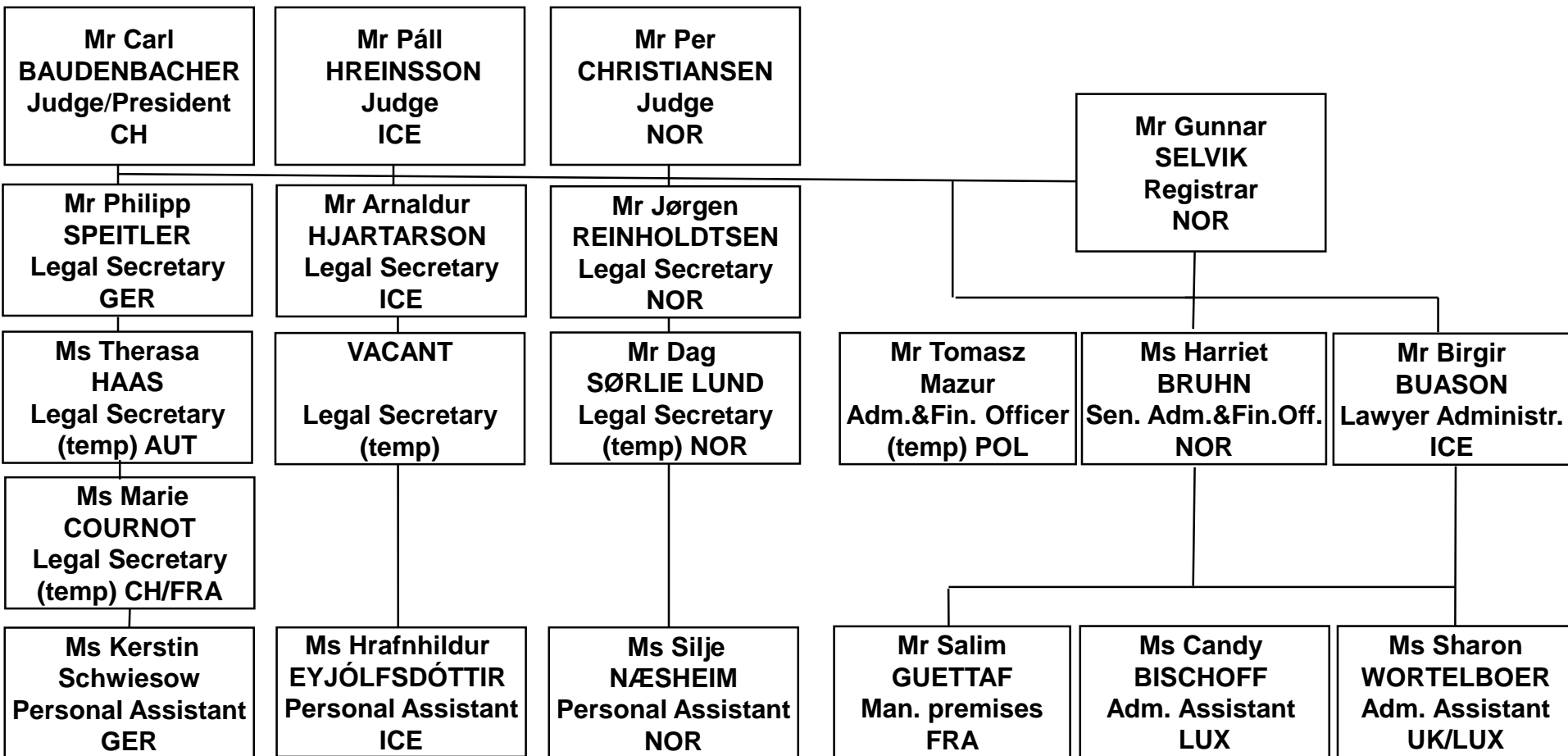


Organisation

- 3 judges → Each EFTA state nominates one judge
- One cabinet per judge, legal secretaries and personal assistants
- Registrar responsible for procedural questions and for the administration of the Court
- No Advocate General, no General Court (\neq ECJ)
- Guest office for researchers etc.
- Total staff: 20 + trainees



Organigram





Types of cases - I

DIRECT ACTIONS (DA)

• Infringement actions vs. EFTA States:

- Initiated by ESA (art 31 SCA)
- Initiated by another EFTA State (art 32 SCA)

• Infringement actions vs. ESA:

- Validity of ESA's decisions (art 36 SCA)
- ESA's failure to act (art 37 SCA)
- Liability of ESA (art 39 SCA)
- Parties: ESA, EFTA States and in some cases private entities



Types of cases - II

ADVISORY OPINIONS (AO)

• Who can request?

- "...any court or tribunal in an EFTA-State.." (Art 34(2) SCA)

• When request?

- "Where... that court or tribunal considers it necessary to enable it to give judgment.." (Art 34(2) SCA)

• Effect?

- Always followed, but formally speaking not binding (\neq ECJ's preliminary rulings)
- National courts' incorrect interpretation of the EEA agreement is in principle a breach of treaty obligations



Procedure

- Main focus on written procedure
- Usually followed by an oral hearing
- Right to make written observations and to participate in the oral hearing:
 - EFTA states, EU states, ESA, Commission and also private parties (if legal standing)



Relationship EU Courts - EFTA Court

- Article 105(2,3) EEA – formal equality
- Art. 6 EEA and Art. 3 SCA: EEA to be interpreted in conformity with the relevant case law of the ECJ
- EFTA Court following the ECJ
- EFTA Court goes first
- EFTA Court rulings on EEA specific problems



Statistics (case load) - I

Sharp increase in new cases in recent years:

- Total 1994–2016: 260 cases (57% DA/43% AO)
 - Annual average: \approx 12 cases
 - First 16 years: 115 cases (7/year)
 - Last 6 years: 145 cases (24/year)
 - ”Low point”: 2 cases (1999)
 - ”High point”: 36 cases (2015)



Statistics (case load) - II

Trends:

- Direct Actions:
 - Surge in non-implementations (especially against Iceland), state aid, competition, access to documents...

- Advisory Opinions:
 - Norway underrepresented, aftermath of financial crisis, increased complexity...

- Maintain effective case handling time:
 - 6-8 months (ECJ: 22-24 months)



Statistics (case load) - III

Pending cases:

- Total 18:
 - 9 Direct Actions (non-implementations/state aid).
 - 9 Advisory Opinions (milk quotas/waste management/right of residence/finance system-money laundering/labour-comp. law-dock workers/invalidity insurance/life insurance).



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The EFTA Court fulfils the judicial function within the EFTA system, interpreting the Agreement on the European Economic Area with regard to the EFTA States party to the Agreement. At present those EFTA States are Iceland, Liechtenstein and Norway ...

Read more in: [English](#)

Latest news



Press Release 01/16 - Case E-17/15 - Ferskar kjötvörur ehf. v the Icelandic State

01.02.2016 2016, 2016

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Annual report 2014



The Report covers the period from 1 January to 31 December 2014 and contains the



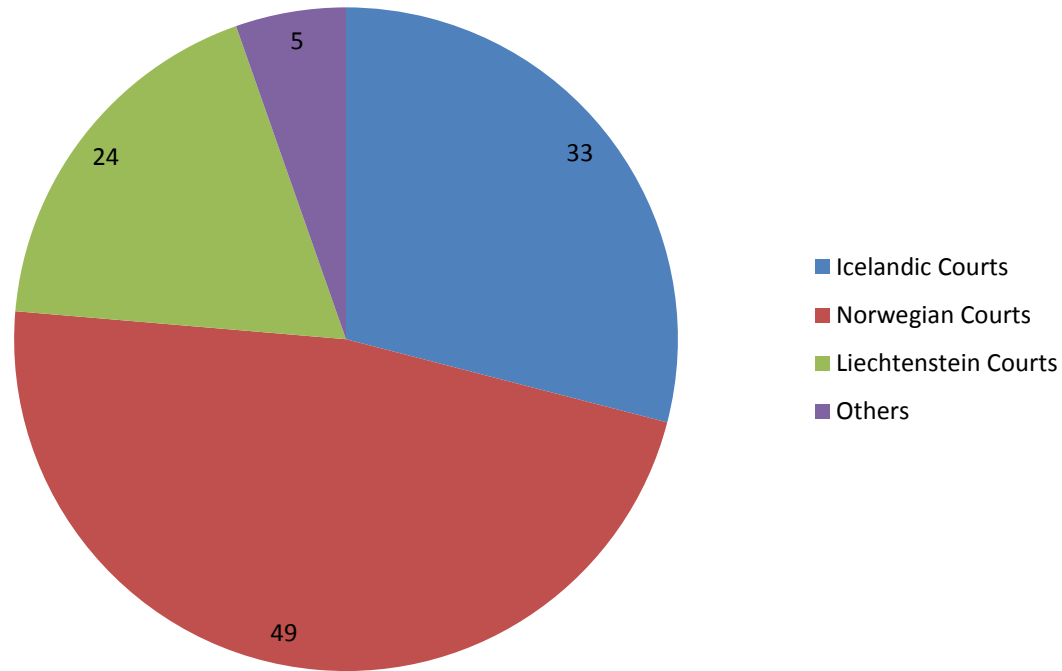
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- Court Diary
- Composition of the Court
- Legal Sources regarding the Court
- Decided and Pending Cases
- Yearly Reports of the Court as from 2004
- Contact Info: eftacourt@eftacourt.int



Advisory Opinions – 1994 - 2016

111 Advisory Opinions - per country





Direct Actions – 1994 - 2016

149 Direct Actions - divided by applicant

