

EEA Enforcement Surveillance and Judicial Control

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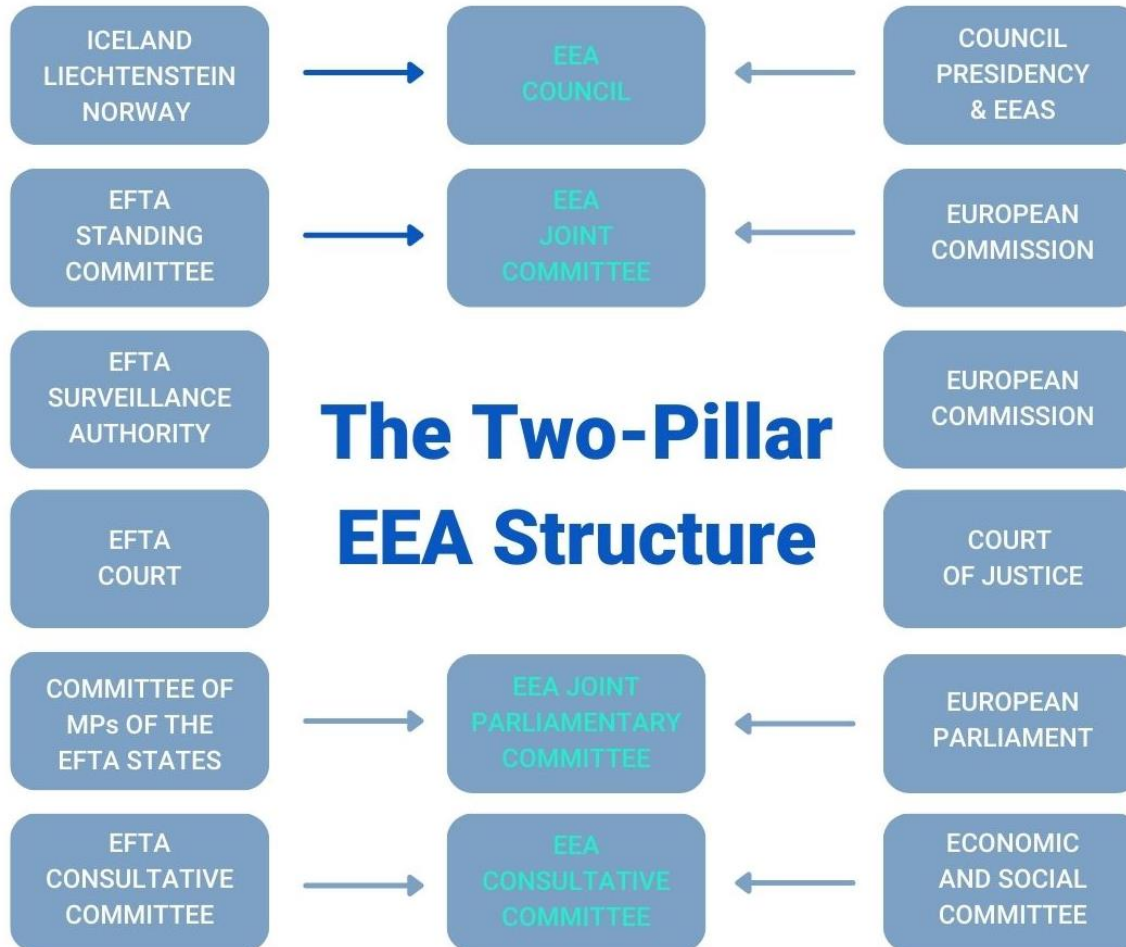
Kristján Jónsson

Legal Secretary (Référéndaire),
EFTA Court



Enforcement

- **ESA monitors compliance** with EEA law in **Iceland, Liechtenstein** and **Norway**.
- The **EEA Agreement** between the European Union, its Member States and the three EEA EFTA States
- The **Surveillance and Court Agreement** between the EEA EFTA States





The ESA College

Árni Páll Árnason

Arne Røksund

Stefan Barriga

The EFTA Court

- Jurisdiction over Iceland, Liechtenstein and Norway on **EEA law**
- Largely corresponds to the role of the Court of Justice of the European Union (CJEU) on **EU law**
- Three judges, each nominated by one of the EEA EFTA States



Páll Hreinsson (Iceland)
President



Bernd Hammermann
(Liechtenstein)



Michael Reiertsen (Norway)

How ESA investigates



MONITOR



**REPORTING
OBLIGATIONS**



**CONFORMITY
ASSESSMENT**



COMPLAINTS



**OWN
INITIATIVE**

Three formal steps of an infringement procedure

1. LFN

ESA sends a **letter of formal notice**, setting out ESA's view on why the State's conduct breaches EEA law, giving the State a chance to respond.

2. RDO

If the issue is not resolved, ESA may deliver a **reasoned opinion** requiring the State to comply with EEA rules.

3. Court

ESA may ultimately bring the case to the EFTA Court to seek a **declaration of non-compliance**. The EFTA Court has the **final say**.

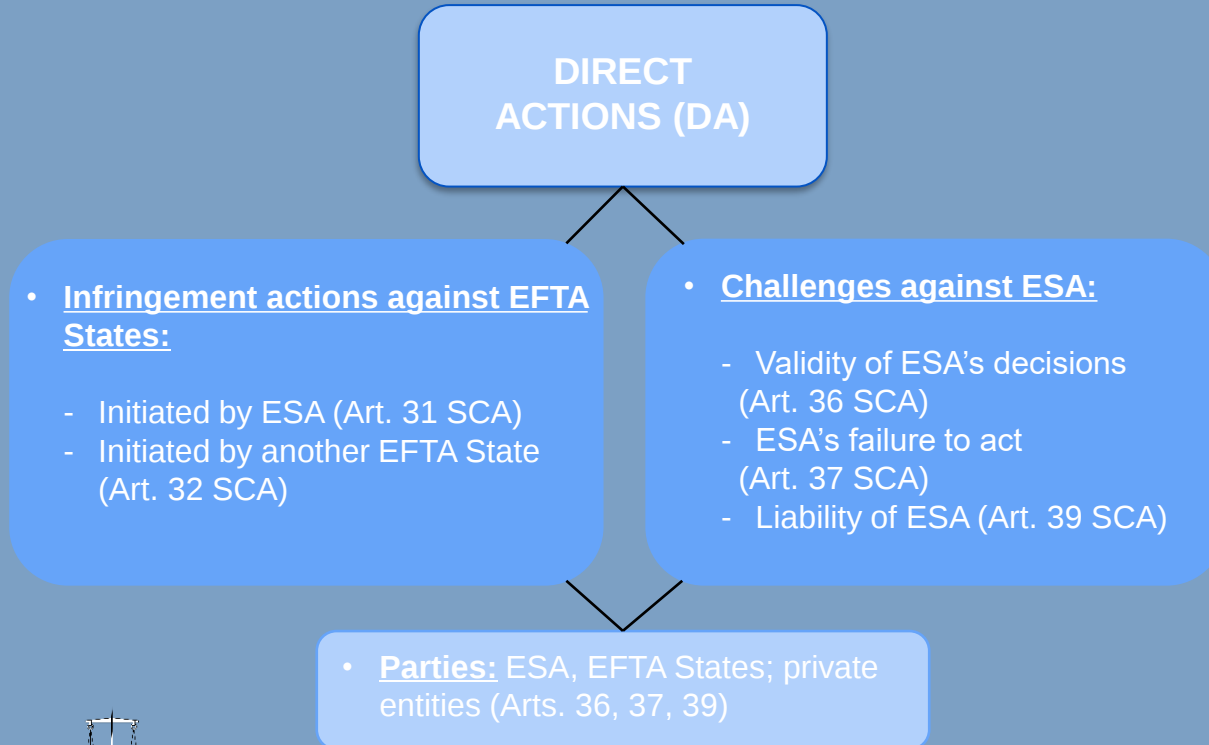
The EEA Agreement is
'an international treaty
sui generis
which contains
a distinct legal order of its own'

Case E-9/97

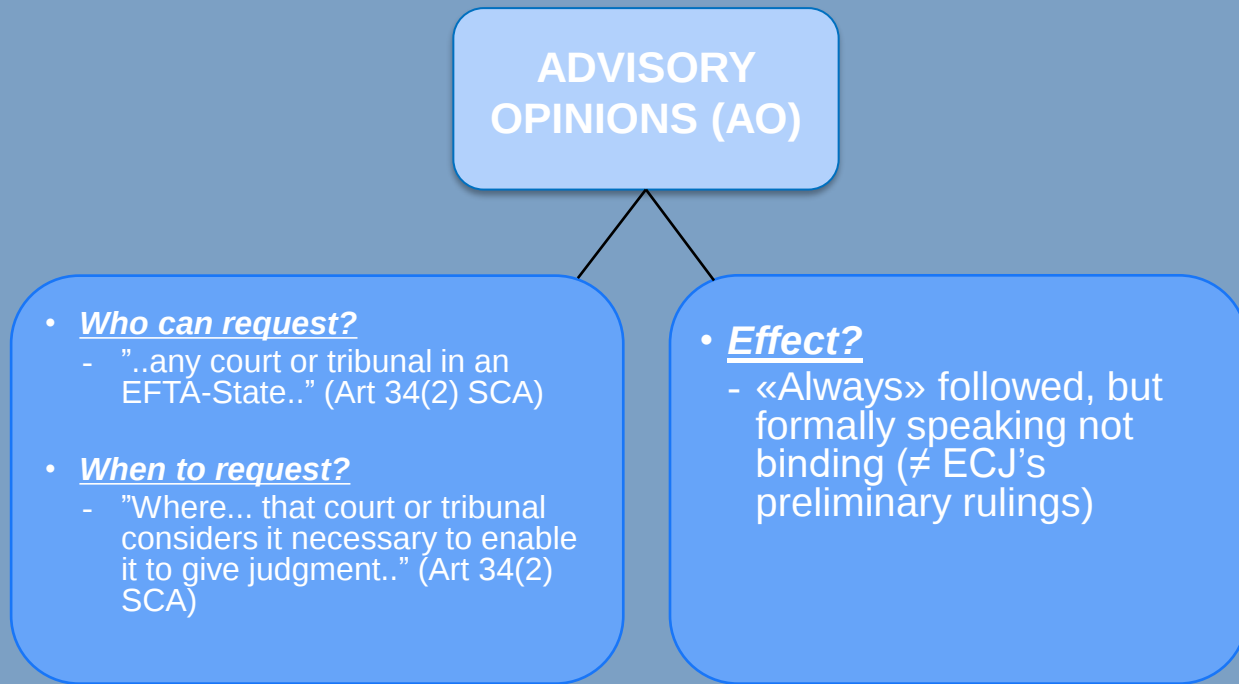
EFTA Court - legal framework

- Art 108(2) EEA Agreement: 'the EFTA States shall establish a court of justice' (EFTA Court)
- Article 27 Surveillance and Court Agreement (SCA): provides for the establishment of the EFTA Court
- Protocol 5 SCA: Statute
- Rules of Procedure: Similar to CJEU
- **Jurisdiction**: To rule on the interpretation of the EEA Agreement, includes Acts ref. in Annexes and Protocols (secondary legislation) and the SCA

Types of cases - I



Types of cases - II



EFTA Court - hearings

- As of mid-2020, public hearings of the EFTA Court streamed online
 - Oral hearings in cases
 - Delivery of judgments
- Article 148 of the Rules of Procedure – Videoconferencing
 - „The Court may determine, by decision, the criteria for its use of video communication and transmission“
- Decision of the Court on participation in oral hearings via video conference equipment



[Stream](#)

Homogeneity

- E-3/98 *Rainford-Towning*: *there are differences in the scope and purpose of the EEA Agreement as compared to the EC Treaty, and it cannot be ruled out that such differences may, under specific circumstances, lead to differences in the interpretation [...]. But where parallel provisions are to be interpreted without any such specific circumstances being present, homogeneity should prevail.*

Special relationship

Case C-202/24 (Grand chamber) *Alchaster*: 29 July 2024

- 67 That third country is, however, in a particular situation in that it has a special relationship with the European Union, going beyond economic and commercial cooperation, since it is a party to the Agreement on the European Economic Area, it participates in the Common European Asylum System, it implements and applies the Schengen *acquis* and it has concluded with the European Union the Agreement on the surrender procedure between the Member States of the European Union and Iceland and Norway, which entered into force on 1 November 2019 (see, to that effect, judgment of 17 March 2021, *JR (Arrest warrant – Conviction in a third State, Member of the EEA)*, C-488/19, EU:C:2021:206, paragraph 60).
- 68 The Court also pointed out, first, that, in the preamble to that agreement, the contracting parties expressed their mutual confidence in the structure and functioning of their legal systems and their ability to guarantee a fair trial and, second, that the provisions of that agreement are very similar to the corresponding provisions of Framework Decision 2002/584 (see to that effect, judgment of 2 April 2020, *Ruska Federacija*, C-897/19 PPU, EU:C:2020:262, paragraphs 73 and 74).
- 69 The consideration referred to in paragraph 66 above, which is based on specific relations between the European Union and certain EEA Member States, cannot, however, be extended to all third countries



Thank you!

ESA

| EFTA
Surveillance
Authority

