

Functioning of the EFTA Court and proceedings before it

Abstract

This rigorosum thesis deals primarily with the functioning of the EFTA Court which is a judicial body in the pillar of the European Free Trade Association within the framework of the so-called two-pillar structure encompassed in the Agreement on the European Economic Area. The EFTA Court was established primarily based on this association agreement which implements the expansion of the internal market by three states, which are Liechtenstein, Iceland and Norway, i.e., from the European Union's point of view non-member states. For the correct functioning of the enlarged internal market the so-called principle of homogeneity is essential, under which the rules and their interpretation must be if possible, the same in both pillars. A separate judicial body in the EFTA pillar was established after the Court of Justice declared the incompatibility of primary Community law with the original version of the agreement which provided for the establishment of a joint court for both pillars. The EEA EFTA States concluded in accordance with the EEA Agreement a separate agreement, thereby the EFTA Court was formally established and by which they granted additional powers to the court compared to the EEA Agreement, including the right to decide on the interpretation of the EEA Agreement in the procedure of issuing an advisory opinion which is similar to the preliminary ruling procedure in EU law.

The thesis first deals with the history of the EFTA Court which, even before its actual establishment, was profoundly shaped by the opinion of the Court of Justice No. 1/91 of 14 December 1991. It also reflects the change in the size of the institution in terms of the number of judges subsequent to the termination of the membership of some states in EFTA. The legal regulation of the EFTA Court is then comprehensively described including a comparison with relevant EU legal sources governing the functioning of the CJEU. Further, the work is devoted to individual types of proceedings before the EFTA Court considering their specifics compared to equivalent procedural types before the EU courts. Subsequently, the rigorosum thesis recalls the essential decisions of the EFTA Court by which some fundamental principles of EU law were adopted into the EEA law. Then the thesis also discusses the relationship of the EFTA Court with other important European courts, particularly with the Court of Justice of the European Union and the European Court of Human Rights. In the case of the EU court, it is explained whether and how both courts must approach the case-law of their counterpart in the opposite pillar of the EEA. With the Strasbourg Court, it is indicated, *inter alia*, how it perceives the standards of human rights

protection in proceedings before the EFTA Court. In conclusion, the author's reflections on the future of the EFTA Court are expressed.

Keywords:

EFTA Court, EEA law, European integration without EU membership.