



Luxembourg, 13 January 2021

Consultation

on the possible publication of Written Observations in Advisory Opinion Cases

Introduction

The EFTA Court has decided to publish requests for Advisory Opinions on its website, both the full text of the original, in the language of the referring court, as well as an English translation. This decision applies to all requests registered at the Court as of 1 January 2021. The EFTA Court considers that this provides additional transparency to the judicial dialogue, between the Court and the national courts in the EFTA States.

The EFTA Court has decided to open for consultation on the possible publication of written observations received by the Court in Advisory Opinion cases. It should be noted that the Court does not envisage, and is not proposing, to publish documents submitted in cases pursuant to Articles 31 or 36 of the Surveillance and Court Agreement.

Possible publication of Written Observations

The Court believes that making available on its website written observations submitted in Advisory Opinions cases could further increase transparency. What is argued in writing before the Court may be of assistance to those interested in EEA law and proceedings before the Court. Such a practice should also benefit the working routines of the Court and contribute to reducing the time of handling Advisory Opinion cases. It should be noted that the Court has decided to shorten the Report for the Hearing. Currently, the report does, in principle, no longer contain any record of the arguments set out in the written observations, only the proposed answers by each participant.

There may be considerations other than transparency and the efficient use of resources, which may be pertinent to the possible publication of written observations. Accordingly, the Court has decided to consult stakeholders in order to help facilitate a well-informed decision on the issue.

Envisaged modalities of publication

If the Court decides to publish written observations in Advisory Opinion cases, the publication would take place after the judgment has been handed down and placed on the Court's website. Publication, at that point in time, should remove any possibility of the publication disturbing the serenity of the judicial deliberations. Possible annexes, and other supporting documents, would not be published.

The Court would routinely inform about the publication and invite those who believe that confidential or sensitive information is included in their written observations to provide the Court with a non-confidential version which would be published.

The Court would welcome any comments or proposals you may have on the above by **Friday 5 March 2021**. All comments should be submitted to the Court for the attention of **registry@eftacourt.int**. In case further information is required, the Registrar of the Court, Mr. Ólafur Jóhannes Einarsson, may be contacted on (+352) 42 108 331.