



Luxembourg, 14 March 2024

## **Consultation**

### **on the future of the Report for the Hearing in Advisory Opinion Cases**

#### ***Background***

Applicable to all cases registered at the Court as of 1 January 2021, the EFTA Court has published requests for Advisory Opinions on its website, both the original in the language of the referring court, as well as the English translation. One of the main reasons behind this decision was to enhance the transparency of the judicial dialogue, between the Court and the national courts in the EFTA States.

As of the same period of time, the Court has also published all written observations submitted to the Court in Advisory Opinion cases, shortly after a judgment in the case is delivered. This was decided, following an open consultation in which this initiative received favourable comments from those who participated. The publication of the written observations has added to the transparency of the proceedings before the Court and allows scholars and other interested parties to examine in detail the arguments brought forward before the Court.

Shortly before the changes outlined above were implemented, the Court decided, for the sake of efficiency, to shorten the report for the hearing in Advisory Opinion cases. Following that decision, the report does not contain any record of the arguments set out in the written observations, only the proposed answers by each participant. It should be stressed that the report for the hearing in direct action cases, lodged under Articles 31 and 36 of the Surveillance and Court Agreement, contains a detailed account of the arguments of the parties and, currently, the Court has no plans to change its practice in that regard.

#### ***Future of the Report for the Hearing in Advisory Opinion Cases***

In the period in which the request for an advisory opinion and the written observations were not publicly available, the report for the hearing had an important role in ensuring transparency of the proceedings. However, the changes outlined above have removed that

aspect from the report and transparency is now ensured by the publication of the request and the written observations.

Drafting, revision and translation of the report for the hearing generally accounts for around 4–6 weeks in the handling of each request for an advisory opinion at the Court. The Court currently endeavours to complete these cases in 8–11 months. However, the Court would like to reduce that time and ending the process for preparing the report for the hearing would contribute to achieving that aim.

Before deciding on the way forward in this respect, the Court would welcome any comments or proposals you may have on the above by **15 April 2024**. All comments should be submitted to the Court for the attention of **registry@eftacourt.int**. In case any further information is required, the Registrar of the Court, Mr. Ólafur Jóhannes Einarsson, may be contacted on (+352) 42 108 331 or at [olafur.einarsson@eftacourt.int](mailto:olafur.einarsson@eftacourt.int).