

V

(Announcements)

COURT PROCEEDINGS

EFTA COURT

Amendments to the rules of procedure of the EFTA Court adopted by the Court on 20 September 2007 and approved by the Governments of the EFTA States

(Only the English text is authentic)

(2008/C 180/12)

THE EFTA COURT,

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, signed in Oporto on 2 May 1992, and in particular Article 43(2) thereof,

Having regard to Protocol 5 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, on the Statute of the Court, and in particular Article 43 thereof,

ADOPTS THE FOLLOWING DECISION AMENDING ITS RULES OF PROCEDURE:

Article 1

1. Article 31(1) shall be amended as follows:

'1. If the Court considers that the conduct of an adviser or lawyer towards the Court, a Judge or the Registrar is incompatible with the dignity of the Court or with the requirements of the proper administration of justice, or that such adviser or lawyer is using his rights for purposes other than those for which they were granted, it shall inform the person concerned. If the Court informs the competent authorities to whom the person concerned is answerable, a copy of the letter sent to those authorities shall be forwarded to the person concerned.

On the same grounds, the Court may at any time, having heard the person concerned, exclude the person concerned from the proceedings by order. That order shall have immediate effect.'

2. Article 32(5) shall be deleted.

3. Article 32(6) shall be paragraph 5, and shall also be amended as follows:

'5. Without prejudice to the provisions in the preceding paragraphs of this Article, the date on which a copy of the

signed original of a pleading, including the schedule of documents referred to in paragraph 3, is received at the Registry by telefax or other technical means of communication available to the Court shall be deemed to be the date of lodgment for the purposes of compliance with the time-limits for taking steps in proceedings, provided that the signed original of the pleading, accompanied by the annexes and copies referred to in the second subparagraph of paragraph 1 above, is lodged at the Registry no later than 10 days thereafter.

Without prejudice to the first subparagraph of paragraph 1 or to paragraphs 2 to 4, the Court may by decision determine the criteria for a procedural document sent to the Registry by electronic means to be deemed to be the original of that document. That decision shall be published in the *Official Journal of the European Union*.'

4. Article 33(2) shall be amended as follows:

'2. For the purpose of the proceedings, the application shall state an address for service in the place where the Court has its seat and the name of the person who is authorized and has expressed willingness to accept service.

In addition to, or instead of, specifying an address for service as referred to in the first subparagraph, the application may state that the lawyer or agent agrees that service is to be effected on him by telefax or other technical means of communication.

If the application does not comply with the requirements set out in the first and second subparagraphs, all service on the party concerned for the purpose of the proceedings shall be effected, for so long as the defect has not been cured, by registered letter addressed to the agent or lawyer of that party. By way of derogation from Article 75, service shall then be deemed to be duly effected by the lodging of the registered letter at a post office of the place where the Court has its seat.'

5. Article 35(1) shall be amended as follows:

'1. Within two months after service on him of the application, the defendant shall lodge a defence, stating:

- (a) the name and address of the defendant;
- (b) the arguments of fact and law relied on;
- (c) the form of order sought by the defendant;
- (d) the nature of any evidence offered by him.

The provisions of Article 33(2) to (6) shall apply to the defence.'

6. The following shall be added to the Rules as Chapter 3a:

'Chapter 3a

EXPEDITED PROCEDURES

Article 59a

1. On application by the applicant or the defendant, the President may exceptionally decide, on the basis of a recommendation by the Judge-Rapporteur and after hearing the other party, that a case is to be determined pursuant to an expedited procedure derogating from the provisions of these Rules, where the particular urgency of the case requires the Court to give its ruling with the minimum of delay.

An application for a case to be decided under an expedited procedure shall be made by a separate document lodged at the same time as the application initiating the proceedings or the defence, as the case may be.

2. Under the expedited procedure, the originating application and the defence may be supplemented by a reply and a rejoinder only if the President considers this to be necessary.

An intervener may lodge a statement in intervention only if the President considers this to be necessary.

3. Once the defence has been lodged or, if the decision to adjudicate under an expedited procedure is not made until after that pleading has been lodged, once that decision has been taken, the President shall fix a date for the hearing, which shall be communicated forthwith to the parties. He may postpone the date of the hearing where the organization of measures of inquiry or of other preparatory measures so requires.

Without prejudice to Article 37, the parties may supplement their arguments and offer further evidence on the course of the oral procedure. They must, however, give reasons for the delay in offering such further evidence.

4. Article 20 of the Statute of the EFTA Court permitting the submission of written observations is applicable under expedited procedure.'

7. Article 71(3) shall be amended as follows:

'3. Where costs to be recovered have been incurred in a currency other than the euro or where the steps in respect of which payment is due were taken in a country of which the euro is not the currency, conversions of currency shall be made at the European Central Bank's official rates of exchange on the day of payment.'

8. Article 72(3) shall be amended as follows:

'3. The President shall designate a Judge to act as Rapporteur. The Court shall, after considering the written observations of the opposite party, decide whether legal aid should be granted in full or in part, or whether it should be refused. The Court shall consider whether there is manifestly no cause of action.

Where the application for legal aid is refused in whole or in part, the order shall state the reasons for that refusal.'

9. The following shall be added to Article 75 as new paragraph 4:

'4. Where, in accordance with the second subparagraph of Article 33(2), the addressee has agreed that service is to be effected on him by telefax or other technical means of communication, any procedural document other than a judgment or order of the Court may be served by the transmission of a copy of the document by such means.

Where, for technical reasons or on account of the nature or length of the document, such transmission is impossible or impracticable, the document shall be served, if the addressee has failed to state an address for service, at his address in accordance with the procedures laid down in paragraph 2 of this Article. The addressee shall be so advised by telefax or other technical means of communication. Service shall then be deemed to have been effected on the addressee by registered post on the tenth day following the lodging of the registered letter at the post office of the place where the Court has its seat, unless it is shown by the acknowledgement of receipt that the letter was received on a different date or the addressee informs the Registrar, within three weeks of being advised by telefax or other technical means of communication, that the document to be served has not reached him.'

10. Article 88(2) shall be amended as follows:

'2. The Court may at any time of its own motion, after hearing the parties, decide whether there exists any absolute bar to proceeding with a case or declare that the action has become devoid of purpose and that there is no need to adjudicate on it; it shall give its decision in accordance with Article 87(3) and (4) of these Rules.'

11. Article 89(1), first subparagraph, shall be amended as follows:

'1. An application to intervene must be made within six weeks of the publication of the notice referred to in Article 14(6) of these Rules. Consideration may be given to an application to intervene which is made after the expiry of that period but before the decision to open the oral procedure. In that event, if the President allows the intervention, the intervener may, on the basis of the Report for the Hearing communicated to him, submit his observations during the oral procedure, if that procedure takes place.'

12. Article 90(1) shall be amended as follows:

'1. If a defendant on whom an application initiating proceedings has been duly served fails to lodge a defence to the application in the proper form within the time prescribed, the applicant may apply for judgment by default.

The application shall be served on the defendant. The President may decide to open the oral procedure on the application.'

13. The following shall be added as a new Article 97a:

'Article 97a

1. At the request of the national court, the President may exceptionally decide, on a proposal from the Judge-Rapporteur to apply an accelerated procedure derogating from the provisions of these Rules to a reference for an advisory opinion, where the circumstances referred to establish that a ruling on the question put to the Court is a matter of exceptional urgency. In that event, the President may immediately fix the date for the hearing, which shall be notified to the parties in the main proceedings and to the other persons referred to in Article 20 of the Statute when the decision making the reference is served.

2. The parties and other interested persons referred to in the preceding paragraph may lodge statements of case or written observations within a period prescribed by the President, which shall not be less than 15 days. The President may request the parties and other interested persons to restrict the matters addressed in their statement of case or written observations to the essential points of law raised by the question referred.

3. The statements of case or written observations, if any, shall be notified to the parties and to the other persons referred to above prior to the hearing.'

Article 2

1. These amendments shall enter into force on 1 January 2008.
2. Article 35(1) as amended shall apply in cases where the defendant's time limit to lodge a defence has started but has not yet elapsed.
3. This Decision, which is authentic in English, shall be published in the EEA Section of and the EEA Supplement to the *Official Journal of the European Union*.
4. This Decision shall be officially translated by the Court into German, Icelandic and Norwegian.

Luxembourg, 20 September 2007.

Carl BAUDENBACHER
President

Henrik BULL
Judge

Thorgeir ÖRLYGSSON
Judge
