

# CHRONICLE ON INTERNATIONAL COURTS AND TRIBUNALS (JULY - DECEMBER 2014)

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Summary: I. INTERNATIONAL COURT OF JUSTICE (ICJ). II. INTERNATIONAL CRIMINAL COURT (ICC) . III. MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS (MICT). IV. SPECIAL COURT FOR SIERRA LEONE (SCSL) – RESIDUAL SPECIAL COURT FOR SIERRA LEONA (RSCSL). V. EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA (ECCC). VI. SPECIAL TRIBUNAL FOR THE LEBANON (STL). VII. EFTA COURT. VIII. PERMANENT TRIBUNAL OF REVISION OF MERCOSUR (PTR)

## I. INTERNATIONAL COURT OF JUSTICE (ICJ) (WWW.ICJ-CIJ.ORG)

### 1. Pendant cases

- *Obligations concerning Negotiations relating to Cessation of the Nuclear Arms Race and to Nuclear Disarmament (Marshall Islands v. Pakistan)*. On 11 July 2014, the President of the ICJ fixed 12 January 2015 and 17 July 2015 as the respective time-limits for the filing of a Memorial by the Republic of the Marshall Islands and a Counter-Memorial by the Islamic Republic of Pakistan.
- *Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile)*. By an Order of 15 July, the President of ICJ has fixed the time-limit for the filing, by the Plurinational State of Bolivia, of a written statement of its observations and submissions on the preliminary objection to the jurisdiction of the Court raised by the Republic of Chile.
- *Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste v. Australia)*. On 3 September, the Court decided to grant the Parties' request to postpone the oral proceedings which had been due to open on 17 September and to last until 24 September. The Parties had requested the Court "to adjourn the hearing set to commence on 17 September 2014, in order to enable [them] to seek an amicable settlement".

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- *Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaraguan Coast (Nicaragua v. Colombia)*. On 19 September, the Court fixed 19 January 2015 as the time-limit within which the Republic of Nicaragua may present a written statement of its observations and submissions on the preliminary objections raised by the Republic of Colombia on 14 August 2014.
- *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)*. By an Order of 19 December, President Tomka fixed 20 April 2015 as the time-limit within which the Republic of Nicaragua may present a written statement of its observations and submissions on the preliminary objections raised by the Republic of Colombia on 19 December 2014.

## 2. New cases

- *Republic of Argentine vs. United States of America*. On 7 August 2014, the Argentine Republic filed in the Registry of the ICJ a document entitled “Application instituting proceedings” against the United States of America, regarding a “Dispute concerning judicial decisions of the United States of America relating to the restructuring of the Argentine sovereign debt”. The Argentine Republic contends that the United States of America has committed violations of Argentine sovereignty and immunities and other related violations as a result of judicial decisions adopted by US tribunals concerning the restructuring of the Argentine public debt. The Argentine Republic “seeks to found the jurisdiction of the Court on the basis of Article 38, paragraph 5, of the Rules of Court”. In accordance with this Article, the Application by the Argentine Republic was transmitted to the US Government. However, no action will be taken in the proceedings unless and until the United States of America consents to the Court’s jurisdiction in the case.
- *Dispute concerning maritime delimitation in the Indian Ocean (Somalia v. Kenya)*. On 28 August, the Federal Republic of Somalia instituted proceedings against the Republic of Kenya with regard to “a dispute concerning maritime delimitation in the Indian Ocean”. Somalia contends that both States “disagree about the location of the maritime boundary in the area where their maritime entitlements overlap”, and asserts that “[d]iplomatic negotiations, in which their respective views have been fully exchanged, have failed to resolve this disagreement”. Somalia requests the Court “to determine, on the basis of international law, the complete course of the single maritime boundary dividing all the maritime areas appertaining to Somalia and to Kenya in the Indian Ocean, including the continental shelf beyond 200 [nautical miles]”. The Applicant further asks the Court “to determine the precise geographical co-ordinates of the single maritime boundary in the Indian Ocean”. In the view of the Applicant, the maritime boundary between the Parties in the territorial sea, exclusive economic zone (EEZ) and continental shelf should be established in accordance with, respectively, Articles 15, 74 and 83 of the United

Nations Convention on the Law of the Sea (UNCLOS). Somalia explains that, accordingly, the boundary line in the territorial sea “should be a median line as specified in Article 15, since there are no special circumstances that would justify departure from such a line” and that, in the EEZ and continental shelf, the boundary “should be established according to the three-step process the Court has consistently employed in its application of Articles 74 and 83”. The Applicant asserts that “Kenya’s current position on the maritime boundary is that it should be a straight line emanating from the Parties’ land boundary terminus, and extending due east along the parallel of latitude on which the land boundary terminus sits, through the full extent of the territorial sea, EEZ and continental shelf, including the continental shelf beyond 200 [nautical miles]”.

On 17 October, the Court fixed the 13 July 2015 and 27 May 2016 as the respective time-limits for the filing of a Memorial by the Federal Republic of Somalia and a Counter-Memorial by the Republic of Kenya.

### **3. News**

- *Report of the President of the ICJ before the UN General Assembly.* On 30 October, the President of the ICJ, Judge Peter Tomka, declared before the UN General Assembly that the total number of contentious cases pending before the Court had been 13 (and now stood at 14); in four of these the Court had held hearings. Three of these hearings had dealt with requests for provisional measures: in October 2013 in the case concerning Certain Activities carried out by Nicaragua in the Border Area (Costa Rica v. Nicaragua); in November 2013 in the case concerning Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica); and in January 2014 on Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste v. Australia). In addition, in March 2014 the Court had held hearings on the merits in the case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia). The President explained that the Court was now deliberating the case, and was in process of drafting its Judgment, which it planned to deliver ahead of the triennial renewal of its composition next February. President Tomka went on to inform the Assembly that the Court had handed down three Judgments during the reporting period, the first in the case concerning the Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand) (Cambodia v. Thailand), the second in the Maritime Dispute (Peru v. Chile) and the third in the case concerning Whaling in the Antarctic (Australia v. Japan); it had also issued three Orders on requests for the indication of provisional measures. The President also summarized the cases submitted to the Court since August 2013, including the proceedings instituted on 28 August last — and thus after the end of the Court’s reporting period — by the Federal Republic of Somalia against the Republic of Kenya with regard to a dispute concerning the delimitation of the two countries’ respective maritime areas in the Indian Ocean. The President observed that this case had brought to 14 the total number of cases currently entered on the Court’s General List.

- *Election of members.* On 6 November, Judges Mohamed Bennouna (Morocco) and Joan E. Donoghue (United States of America) were re-elected as Members of the Court, and Mr. James Richard Crawford (Australia) and Mr. Kirill Gevorgian (Russian Federation) were elected as new Members of the Court. The election of this fifth Member could not be concluded on 6 and 7 November, since neither of the two remaining candidates — Ms Ruiz Cerutti (Argentina) and Mr. Robinson— obtained an absolute majority in both the General Assembly and the Security Council. On 17 November, the UN General Assembly and the Security Council elected Mr. Patrick Lipton Robinson (Jamaica) as a new member. These members were elected for a nine-year term of office, beginning on 6 February 2015.

## **II. INTERNATIONAL CRIMINAL COURT (ICC) (WWW.ICC-CPI.INT)**

### **1. Judgements**

Situation: Libya

Case: *The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi*

On 24 July, the Appeals Chamber unanimously confirmed Pre-Trial Chamber I's decision which declared the case against Abdullah Al-Senussi inadmissible before the ICC. On 2 April 2013, the Libyan authorities had filed a challenge to the admissibility of the case with regard to Abdullah Al Senussi before Pre-Trial Chamber I of the ICC. On 11 October 2013, Pre-Trial Chamber I had decided that the case against Mr Al-Senussi was inadmissible before the Court as it was subject to on-going domestic proceedings conducted by the competent Libyan authorities and that Libya was willing and able genuinely to carry out such investigation. On 17 October 2013, the Defence appealed this decision. In an open session today, the Presiding Judge in this appeal, Judge Akua Kuenyehia, read a summary of the Judgment of the Appeals Chamber and of the separate opinions by Judges Sang-Hyun Song and Judge Anita Ušacka. The Presiding Judge indicated that the Appeals Chamber examined thoroughly the three grounds of appeal submitted by the Defence of Mr Senussi. The Appeals Chamber concluded that there were no errors in the findings of the Pre-Trial Chamber that Libya is not unwilling or unable to genuinely prosecute Mr Al-Senussi, or in the exercise of its discretion in the conduct of the proceedings and in the evaluation of the evidence. In accordance with the Rome Statute, the ICC does not replace national criminal justice systems; rather, it complements them. The ICC can investigate and, where warranted, prosecute and try individuals only if the State concerned does not, cannot or is unwilling genuinely to do so.

Situation: Democratic Republic of Congo

Case: *The Prosecutor v. Thomas Lubanga Dyilo*

As of 1 December, the Appeals Chamber delivered its judgments on Mr Lubanga's appeal against the verdict issued by ICC Trial Chamber I, that Mr Lubanga was guilty of the enlistment, conscription and use in hostilities of children under the age of fifteen.

The Appeals Chamber issued simultaneously its judgment on the appeals of the Prosecutor and Mr Lubanga against the sentence imposed by the Trial Chamber. The Appeals Chamber confirmed, by majority, the verdict declaring Mr Lubanga guilty and the decision sentencing him to 14 years of imprisonment.

## **2. Procedural incidents**

*Prosecutor v. Simone Gbagbo* On 11 December 2014, the Pre-Trial Chamber I rejected the challenge to the admissibility of the case against Simone Gbagbo submitted by Côte d'Ivoire arguing that the domestic authorities were not taking steps "aimed at ascertaining whether Simone Gbagbo is criminally responsible for the same conduct that is alleged in the case before the Court."

*Second investigation in the Central African Republic (CAR)* On 24 September 2014, the Prosecutor, Fatou Bensouda, announced her decision to open a second investigation in the CAR regarding crimes allegedly committed since the year 2012. Her decision is based on the request of the transitional government of CAR who decided on 30 May 2014 to refer the situation to the ICC in order that alleged crimes would be investigated since 1 August 2012.

*Prosecutor v. Abdallah Banda Abakaer Nourain* On 11 September 2014, the Trial Chamber IV issued an arrest warrant against Mr. Banda. Since 7 March 2011, three charges of allegedly committed war crimes in Darfur (Sudan) had been confirmed against him.

*Prosecutor v. Abdullah Al-Senussi* The Libyan authorities challenged on 1 April 2013 the admissibility of this case before Pre-Trial Chamber I. The latter decided that the case was inadmissible, indeed, due to ongoing domestic proceedings by the authorities of Libya. The Defence appealed this decision, but on 24 July 2015, the Appeals Chamber of the ICC unanimously confirmed the inadmissibility of the Case Al-Senussi before the ICC.

## **3. Arrest Warrants**

Situation: Darfur, Sudan

Case: *The Prosecutor v. Abdallah Banda Abakaer Nourain*

As of 11 September, Trial Chamber IV issued an arrest warrant against Abdallah Banda Abakaer Nourain. Three charges of war crimes allegedly committed in Darfur (Sudan) were confirmed against him on 7 March 2011. The Chamber vacated the trial date previously scheduled to open on 18 November 2014 and directed the ICC Registry to transmit the new requests for arrest and surrender to any State, including the Sudan, on whose territory Mr Banda may be found.

#### 4. New investigations

On 24 September, the Prosecutor announced the decision to open a second investigation in the Central African Republic (CAR) with respect to crimes allegedly committed since 2012. The Prosecutor declared: “I was clear from the outset in firm, unequivocal and consistent public statements that attacks against civilians would not be tolerated and the perpetrators of such crimes could face justice at the ICC [...] In February this year, following escalating violence in CAR, I opened a new preliminary examination to assess whether or not I could proceed with an investigation into what was a dire situation in CAR. The transitional government of CAR decided to refer the situation to my Office on 30 May 2014 requesting that I investigate alleged crimes falling within ICC jurisdiction committed in the country since 1 August 2012”.

#### 5. News

- *Ratification of the 2010 amendments to the Rome Statute.* On 17 July, Austria proceed to deposit the instruments of ratification; as well as Latvia, Poland and Spain on 25 September, San Marino on 14 November; Georgia on 5 December.
- *PARLASUR and ICC.* On 4 August, Hon. Rubén Martínez Huelmo, President of PARLASUR (Parliament of the MERCOSUR, Common Market of the South) and the President of the ICC, Judge Sang-Hyun Song, met at MERCOSUR premises in Montevideo (Uruguay) to sign an Exchange of Letters for the establishment of a Framework Cooperation Arrangement between both institutions. Recalling the connections between peace, justice and sustainable development, the two organisations agreed to develop their mutual cooperation on matters of common interest.
- *Report on Preliminary Examination Activities.* On 2 December, the Prosecutor, Mrs. Fatou Bensouda, published her annual Report on Preliminary Examination Activities. The report provides an overview of her Office's analysis and activities conducted between 1 November 2013 and 31 October 2014 in relation to eleven situations that were under consideration for possible investigation. Of these eleven situations, one proceeded to investigation (the Central African Republic), two were closed after the Prosecutor determined that the legal criteria for opening an investigation were not met (Republic of Korea; Registered Vessels of Comoros, Greece and Cambodia), and eight situations remain under on-going examination (Afghanistan, Colombia, Georgia, Guinea, Honduras, Iraq, Nigeria and Ukraine). Of these eight, two new preliminary examinations were opened during the reporting period in relation to the situation in Ukraine and the situation in Iraq.
- *New judges.* During the Assembly of States Parties, from 8 to 17 December, six new judges were elected for a term of nine years: CHUNG, Chang-ho, *Group of Asia-Pacific States (Republic of Korea), list A, male*; HOFMAŃSKI, Piotr, *Group of Eastern European States (Poland)*; KOVÁCS, Péter, *Group of Eastern European States (Hungary)*; MINDUA, Antoine Kesia-Mbe, *Group of African*

*States (Democratic Republic of the Congo); PERRIN DE BRICHAMBAUT, Marc Pierre; Group of Western European and other States (France); SCHMITT, Bertram; Group of Western European and other States (Germany).*

### **III. MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS (MICT) (WWW.UNMICT.ORG)**

#### **1. News**

- *Second Annual Report of the MICT.* On 13 October, President Meron reported on the MICT's progress and noted that it faced two pre-eminent challenges: apprehension of individuals indicted by the ICTR but not yet arrested, and relocation of individuals who were acquitted or finished serving sentences. President Meron reported that the MICT is making good progress at assuming relevant functions, noting that in cooperation with the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR) respectively, it has already completed or is in the process of completing transfer of responsibilities with regard to witness protection, archives, and other matters. In this regard, President Meron underscored his gratitude for the cooperation of the President of the ICTR, and of Prosecutors, Registrars, Judges, and staff of the ICTR and ICTY. More broadly, President Meron observed that the support of the international community, including the MICT's host states, Tanzania and the Netherlands, was crucial to its successes.

With regard to judicial work, the President observed that the MICT is on track to deliver its first appeal judgement, as forecast, by the end of the year. He also noted that the MICT has rendered decisions and orders on a variety of other matters, and discussed the efforts of the MICT to cooperate with authorities of national jurisdictions.

With respect to challenges facing the MICT, the President called on every member state to assist the Prosecutor in tracking remaining indictees, noting it was essential to match the ICTY's record of accounting for all indicted individuals. The President also explained that it is vital to the credibility of international institutions that acquitted and released individuals be resettled, and asked that delegations discuss this issue with their national governments.

In concluding, President Meron explained that the ICTY and MICT are organizations that might "*serve as harbingers of a new era—of a new world—where respect for the rule of law is universal and the concept of impunity is relegated to history.*"

#### **IV. SPECIAL COURT FOR SIERRA LEONE (SCSL) – RESIDUAL SPECIAL COURT FOR SIERRA LEONE (RSCSL) (WWW.RSCSL.ORG)**

##### **1. Decisions**

*Prosecutor v. Moinina Fofana* On 11 August 2014, President *Justice Philip N. Waki* granted *Moinina Fofana* the application for Conditional Early Release. The conditions can be found in Annex C of the Decision; however, noteworthy are the special conditions imposed by the President that are as follows, among others:

- he shall publicly apologize for the committed crimes
- he is not allowed to approach the witnesses and shall abstain from any action in order to intimidate them
- he shall integrate into the community and shall stay out of local politics, let alone to plan civil disorder

After a six month specific training, *Fofana* returned to *Bo* on 14 March 2015 where he will serve the last three years of his 15-year sentence after having publicly apologized for the crimes. During this final period, he will be monitored by a ‘Monitoring Authority’, which was created by the RSCSL and the Government of Sierra Leone. For the first time, a war crimes convict was granted a supervised Conditional Early Release by an international criminal tribunal.

##### **2. News**

- *Appointment of new Registrar* As of 1 January 2014, the Residual Special Court for Sierra Leone (RSCSL) succeeded the SCSL in order to manage the ten residual functions that include witness protection, supervision of prison sentences and the management of the SCSL archives. On 29 September 2014, *Binta Mansaray* was appointed Registrar of the RSCSL by the Secretary-General of the United Nations for a three-year term with the possibility of reappointment, according to Article 15 of the Statute. Since January 2014, she had already served as Acting Registrar of the RSCSL. From February 2010 to December 2013, Ms *Mansaray* served as Registrar of the Special Court for Sierra Leone.

#### **V. EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA (ECCC) (WWW.ECCC.GOV.KH/)**

##### **1. Judgements**

*Case 002/01* On 7 August 2014, *Nuon Chea* and *Khieu Samphan* were found guilty by the Trial Chamber of the ECCC of crimes against humanity committed between April 1975 and December 1977. Both of them were sentenced to life imprisonment.



## 2. Procedural incidents

Case 002/02 Trial hearings started in late 2014 and are still ongoing.

## 3. News

- *New International Judge to serve in the Trial Chamber* His Majesty King Norodom Sihamoni appointed on 1 September 2014 Ms *Claudia Fenz* from Austria new International Judge serving in the Trial Chamber of the ECCC after having been nominated by UN Secretary-General *Ban Ki-moon* and being approved by the Supreme Council of the Magistracy. She replaced Judge *Silvia Cartwright* (New Zealand) and Ms Fenz is replaced by *Martin Karopkin* (USA) to serve as international reserve judge in the Trial Chamber.
- *Single contributions* The following countries have made single contributions to the international component:
  - o Australia confirmed on 2 July 2014 a new single contribution of US\$3 million. With this new contribution, Australia becomes the second largest donor to the Court.
  - o On 9 July 2014, the Government of Malaysia contributed US\$50,000
  - o Sweden announced on 10 July 2014 the contribution of US\$4.5 million for the period 2014-2015. Sweden is a key donor and belongs to the Principal Donors Group.
  - o The ECCC counts with a new donor as Chile announced on the 12 September 2014 a contribution of US\$10,000.
  - o A new contribution was made by Japan of US\$1,385,567 on 19 January 2015. Japan is the largest donor whose contributions represent approx. 36% of the total contributions made to the ECCC.
- *Case load* On 26 November 2014, the International Co-Prosecutor *Nicholas Koumjian* confirmed the policy of his offices since the beginning that no additional cases after cases 003 and 004 will be submitted to the Co-Investigating Judges, but they concentrate on completing the current cases.

## VI. SPECIAL TRIBUNAL FOR THE LEBANON (STL) ([WWW.STL-TSL.ORG/](http://WWW.STL-TSL.ORG/))

### 1. Procedural incidents

*Contempt cases* On 31 January 2014, Ms *Karma Mohamed Tahsin Al Khayat* and AL JADEED [CO.] S.A.L./NEW T.V. S.A.L. (N.T.V.) (STL-14-05) as well as Mr *Ibrahim Mohamed Ali Al Amin* and Akhbar Beirut S.A.L. (STL-14-06) were charged with counts of contempt and obstruction of justice. This decision was challenged by the Defence. The Appeals Panel decided on 2 October 2014 (STL 14-05) and on 23 January 2015 (STL 14-06) that the Tribunal has jurisdiction to hear cases of contempt and obstruction of justice against legal persons. STL 14-05 was decided by majority while the Panel

decided unanimously in the case of STL 14-06 with the consequence that the charges against Akhbar S.A.L. were reinstated.

## 2. News

*Lebanon's contribution* On 6 November 2014, the STL confirmed that Lebanon had transferred its share of the budget for 2014, which amounts to € 29,347,003.50 and represents 49% of the STL budget.

## VII. EUROPEAN FREE TRADE ASSOCIATION COURT (EFTA COURT) (WWW.EFTACOURT.INT)

### 1. Judgments

*ICELAND* The Court delivered in various cases its judgement that Iceland had failed to fulfil its obligations under Article 7 of the EEA Agreement as it did not adopt the necessary measure in order to make part of its internal legal order or to implement acts within the time prescribed.

- *Case E-8/14 - EFTA Surveillance Authority v Iceland* (10 November 2014): Concerning the failure of implementing the Act referred to at point 27 of Annex XVIII to the Agreement on the European Economic Area, that is Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (Recast), as adapted to the EEA Agreement by way of Protocol 1 thereto and by Joint Committee Decision No. 54/2010.
- *Case E-6/14 - EFTA Surveillance Authority v Iceland* (10 November 2014): Concerning the failure of implementing the Act referred to at point 5 of Chapter XXIX of Annex II to the Agreement on the European Economic Area (Commission Directive 2008/43/EC of 4 April 2008 setting up, pursuant to Council Directive 93/15/EEC, a system for the identification and traceability of explosives for civil uses), as adapted to the Agreement by way of Protocol 1 thereto.
- *Case E-2/14 - EFTA Surveillance Authority v Iceland* (10 November 2014): Concerning the failure of implementing the Act referred to at point 56v of Annex XIII to the Agreement on the European Economic Area (Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements), as adapted to the Agreement by way of Protocol 1 thereto and by EEA Joint Committee Decision No 65/2009 of 29 May 2009
- *Case E-5/14 - EFTA Surveillance Authority v Iceland* (24 September 2014): Concerning the failure of implementing the Act referred to at point 32ff of Chapter V of Annex XX to the Agreement on the European Economic Area (Directive

2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives), as adapted to the EEA Agreement by way of Protocol 1 thereto, Iceland has failed to fulfil its obligations under Article 40 of that Act.

- *Case E-4/14 - EFTA Surveillance Authority v Iceland* (24 September 2014): Concerning the failure of implementing the Act referred to at point 4 of Chapter XXIX of Annex II to the Agreement on the European Economic Area (Directive 2007/23/EC of the European Parliament and of the Council of 23 May 2007 on the placing on the market of pyrotechnic articles), as adapted to the Agreement by way of Protocol 1 thereto, Iceland has failed to fulfil its obligations under Article 21 of that Act.
- *Case E-1/14 - EFTA Surveillance Authority v Iceland* (24 September 2014): Concerning the failure of implementing the Act referred to at point 18a of Annex XIII to the Agreement on the European Economic Area (Directive 2006/38/EC of the European Parliament and of the Council of 17 May 2006 amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures), as adapted to the Agreement by way of Protocol 1 thereto.

*Case E-4/13 - DB Schenker v EFTA Surveillance Authority* The Court ordered on 25 November 2014 that the application for annulling the EFTA Surveillance Authority's ("ESA") Decision of 7 February 2013 to deny access to the inspection documents in Case No 34250 (Norway Post / Privpak) after the Court annulled ESA's first decision on 21 December 2012 in Case E-14/11 was dismissed.

*Case E-21/13 - The Fédération Internationale de Football Association (FIFA) v EFTA Surveillance Authority* On 3 October 2014, the EFTA Court dismissed the application for annulling partially the EFTA Surveillance Authority Decision No 309/13/COL of 16 July 2013 on the compatibility with EEA law of measures to be taken by Norway pursuant to Article 14 of Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (OJ 2010 L 95, p. 1) ("the Directive").

*Case E-7/14 - EFTA Surveillance Authority v The Kingdom of Norway* On 24 September 2014, the Court delivered its judgement that the Kingdom of Norway had failed to fulfil its obligations under article 36 EEA.

*Case E-3/14 - EFTA Surveillance Authority v The Kingdom of Norway* On 24 September 2014, the Court declared that the Kingdom of Norway had failed to fulfil its obligations under the Act and under Article 7 of the Agreement to adopt the necessary measures, within the time prescribed, to implement the Act referred to at point 65a of Annex XIII to the Agreement on the European Economic Area (Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges), as

adapted to the Agreement by way of Protocol 1 thereto, the Kingdom of Norway has failed.

*Case E-8/13 - Abelia v EFTA Surveillance Authority* On 29 August 2014, the Court dismissed the application for the annulment of EFTA Surveillance Authority Decision No 160/13/COL of 24 April 2013 on alleged aid granted to lessors of premises to public schools.

*Case E-15/10 COSTS - DB Schenker v Posten Norge AS* The Court decided on 28 August 2014 the total of the remaining costs to be paid by Posten Norge AS, which amounts to EUR 157 287.88.

*Case E-5/13 - DB Schenker v EFTA Surveillance Authority* On 7 July 2014, the Court partially annuls the EFTA Surveillance Authority's decision of 25 January 2013 in ESA Case No 73075 (DB Schenker) in so far as it refuses full or partial access under Article 4(4) and (6) RAD 2012 to documents belonging to the case files that led to ESA Decision No 321/10/COL (Norway Post - loyalty/discount system) and refuses to grant access to the complete version of ESA Decision No 321/10/COL ("RAD 2012") (not published in the Official Journal). However, it dismiss the application for annulment for the remaining issues.

## **2. Advisory opinions**

*Case E-10/14 - Enes Deveci and Others v Scandinavian Airlines System Denmark-Norway-Sweden* On 18 December 2014, the Court delivered its advisory opinion regarding the interpretation of the Council Directive 2001/23/EC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses.

*Case E-18/14 – Wow air ehf. v Samkeppniseftirlitið, Isavia ohf. and Icelandair ehf.* The Court delivered on 9 December 2014 its advisory opinion with regard to the interpretation of the Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports.

*Case E-27/13 - Sævar Jón Gunnarsson v Landsbankinn hf.* On 24 November 2014, the Court gave its advisory opinion on how to interpret the Council Directive 87/102/EEC of 22 December 1986 on consumer credit and Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts.

*Case E-9/14 Proceedings concerning Otto Kaufmann AG.* On 10 November 2014, the Court delivered its advisory opinion on the interpretation of EEA law with regard to the recording of criminal convictions of legal persons.

*Case E-28/13 - LBI hf. v Merrill Lynch Int Ltd.* The Court delivered on 17 October 2014 its advisory opinion regarding the the interpretation of Article 30(1) of Directive

2001/24/EC of the European Parliament and of the Council on the reorganisation and winding up of credit institutions.

*Case E-24/13 - Casino Admiral AG v Wolfgang Egger* On 29 August 2014, the Court delivered its advisory opinion regarding the interpretation of articles 31 and 36 of the EEA Agreement and the obligation of transparency derived therefrom in the context of a procedure for awarding a casino concession.

*Case E-25/13 - Gunnar V. Engilbertsson v Íslandsbanki hf.* On 28 August 2014, the Court gave its advisory opinion concerning the interpretation of Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts.

*Joined Cases E-3/13 and E-20/13 - Fred. Olsen and Others v the Norwegian State* On 9 July 2014, the Court delivered its advisory opinion on how to interpret the rules on freedom of establishment and the free movement of capital, in particular the interpretation of Articles 31 and 40 of the EEA Agreement, in relation to the Norwegian controlled foreign company tax legislation (“CFC rules”) which permits national taxation of capital placed in a lowtax country.

### **3. News**

*Reappointment of Páll Hreinsson* On 14 July 2014, Judge Páll Hreinsson was reappointed by the Governments of the EFTA States for a second term as a Judge, with effect from 1 January 2015.

## **VIII. PERMANENT TRIBUNAL OF REVISION OF MERCOSUR (PTR) ([HTTP://WWW.TPRMERCOSUR.ORG/](http://www.tprmecosur.org/))**

### **1. Advisory Opinion**

*Res. P/TPR/Nº2/14* On 12 August 2014, the PTR decided to close the proceedings concerning the advisory opinion requested by the Supreme Court of Justice of Argentina regarding the decisions “S.A. La Hispano Argentina Curtiembre y Charolería C/ E.N. –DGA – (SANLO) S/ DIRECCIÓN GENERAL DE ADUANAS”.

### **2. News**

- *10th anniversary of the PTR* On 13 August 2014, a celebration of the 10th anniversary of the PTR took place.
- *Seminar on the language Guaraní* On 28 and 29 November 2014, the PTR organized its first seminar of the Language Guaraní with the title “La lengua guaraní en el Mercosur”.