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**PRESS RELEASE 01/2017**

**Order in Case E-21/16 *Pascal Nobile v DAS Rechtsschutz-Versicherungs AG***

**ANY DOUBTS RAISED AS TO THE INDEPENDENCE AND IMPARTIALITY OF THE COURT DEMAND SWIFT RESOLUTION**

In an order delivered today, the President of the Court denied the request of the Princely Court of Appeal of Liechtenstein (*Fürstliches Obergericht*) to apply an accelerated procedure, pursuant to Article 97a of the Rules of Procedure.

ESA/Court Committee Decision No 5 of 1 December 2016 re-appointed Judge Per Christiansen for a period of three years with effect from 17 January 2017. Pursuant to Article 30 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“SCA”), a judge shall be appointed for a term of six years. In the present proceedings, the Princely Court of Appeal referred three questions to the Court. The first two seek to clarify requirements of substantive EEA law concerning the free choice of lawyer provided for in Article 201(1)(a) of Directive 2009/138/EC (the “Solvency II Directive”). The third question raises, in essence, the issue whether, from 17 January 2017, the Court is lawfully composed. ESA/Court Committee Decision 2017 No 1 of 13 January 2017, however, repealed the previous decision and re-appointed Judge Per Christiansen for a term of six years. On 14 February 2017, in a Decision the Court ruled that this new decision provides for a term that is in accordance with Article 30 SCA and consequently that the Court is lawfully composed in a manner which ensures its independence and impartiality from 17 January 2017.

In his order, the President recalled that an accelerated procedure to a reference for an advisory opinion applies in matters of exceptional urgency. As regards the first two questions referred by the Princely Court of Appeal, the circumstances do not constitute a matter of exceptional urgency.

The third question, would, in principle, be a matter of exceptional urgency because it touches upon the Court’s integrity. The President held that the Court assumes an essential role in the EEA legal order and the proper composition of the Court is key to the observance of the rights and obligations flowing from the EEA Agreement. Without an independent court, the purpose of the Agreement would be rendered nugatory and the EFTA States would fail to safeguard the protection of the rights of individuals and economic operators. To maintain the independence of the judiciary is not a privilege for judges, but a guarantee for the respect of these rights and a bulwark of the democratic order.

Because of Court’s findings in its Decision of 14 February 2017, the circumstances that existed when the national court lodged its request for an accelerated procedure no longer exist.

The full text of the order may be found on the internet at: [www.eftacourt.int](http://www.eftacourt.int).

This press release is an unofficial document and is not binding upon the Court.