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## **PRESS RELEASE 03/2005**

### **Judgment in Case E-10/04 *Paolo Piazza v Paul Schurte AG***

#### **Security for costs before national courts**

In an Advisory Opinion delivered today, the EFTA Court considered the question of whether a national provision that limits means of security for costs in court proceedings to various forms of security of domestic origin is in conformity with the rules of the EEA Agreement on free movement of capital.

The question arose in the context of a labour law dispute before the Fürstliches Landgericht (Princely Court of Justice) in Liechtenstein concerning a pecuniary claim raised by an Italian national residing in Switzerland against his former employer, a company incorporated under Liechtenstein law. The national court instructed the Claimant to provide security for costs of the Defendant and for the court proceedings but requested the EFTA Court's opinion in relation to a decision on the means of security to be provided.

The EFTA Court found that a national provision that differentiates between means of security on the sole basis of whether or not they originate in Liechtenstein inevitably restricts the movement of capital between the EEA Contracting Parties, since it impedes claimants in court proceedings in Liechtenstein from providing security that originates in another Contracting Party.

In relation to possible justification of the restriction, the EFTA Court held that it may serve the legitimate aim of protecting the good functioning of the civil justice system to ensure that costs of court proceedings can be effectively collected. Although the enforcement of foreign security may be difficult, since it often involves costs and complications that will not arise when enforcing domestic security, it would not be so in all cases. The EFTA Court concluded that an outright exclusion of any security originating in other Contracting Parties violated Article 40 EEA on free movement of capital, since it did not satisfy the conditions of proportionality, which require that the least restrictive means are chosen.

The full text of the judgment may be found on the Internet at: [www.eftacourt.lu](http://www.eftacourt.lu).

This press release is not an official document. Please note that the Court may not comment on the case.