



XVI<sup>e</sup> Congrès de la Conférence des Cours constitutionnelles européennes  
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**Synthèse / Summary / Kurzfassung / резюме**

**ROYAUME DE NORVÈGE / KINGDOM OF NORWAY /  
KÖNIGREICH NORWEGEN / КОРОЛЕВСТВО НОРВЕГИЯ**

**The Supreme Court of Norway  
Norges Høyesterett**

**Anglais / English / Englisch / английский**

## **Cooperation of Constitutional Courts in Europe -**

### **Current Situation and Perspectives**

#### **Summary – Norwegian national report**

A few introductory remarks may prove useful for the understanding of the answers given below.

Norway has no separate constitutional court. The Supreme Court of Norway deals with all kinds of cases, both civil cases, criminal cases, administrative cases and cases related to constitutional questions.

Norway is not a member of the EU, but has access to EU's internal market through the European Economic Area Treaty (the EEA Treaty). As a consequence, Norway is not bound by decisions given by the Court of Justice of the European Union. To monitor the implementation of the EEA provisions, the EFTA Court has been set up. The EFTA Court decisions are formally no more than advisory opinions on the interpretation of the EEA Agreement. In this respect, the legal standing of the EFTA Court differs from that of the Court of Justice of the European Union. Another important difference between the EU and EEA law is that the latter does not have direct effect in domestic law. For an EEA provision to be enforceable by Norwegian courts and thus establish rights and obligations for individuals, it is a necessary requirement that the provision is implemented into domestic law by an explicit decision by the relevant authorities.

#### **I. Constitutional courts between constitutional law and European law**

The Supreme Court of Norway is obliged to interpret Norwegian domestic law in a way that does not conflict with the Norwegian obligations under international law. In this manner, the Supreme Court jurisprudence will in fact be greatly influenced by the jurisprudence of the EFTA Court, the Court of Justice of the European Union and the European Court of Human Rights. However, the Norwegian courts have no formal obligation to adhere to the jurisprudence of the European courts.

The Supreme Court of Norway often refers to international sources of law, including treaty provisions and jurisprudence from the European courts.

There are small traces of tension between the European objective of a homogenous and autonomous interpretation of the EEA obligations and the Norwegian requirement of judicial and legislative sovereignty. The Supreme Court of Norway has adopted an independent view towards the EFTA Court's interpretation of the EEA law. In case of an explicit conflict between Norwegian rules and EEA provisions, the Supreme Court of Norway will most likely let the Norwegian rule prevail. This is due to

the dualist system and the fact that decisions rendered by the EFTA Court are not formally binding for Norwegian courts.

The European courts have in some cases reacted to Norwegian jurisprudence by offering obiter dictum remarks, but otherwise, Norwegian jurisprudence impacts the jurisprudence of the European courts to a modest degree.

## **II. Interactions between constitutional courts**

The Supreme Court of Norway also refers to the jurisprudence of other constitutional courts, most commonly to case-law from the Swedish and Danish Supreme Courts. There is an extensive legislative cooperation between the Nordic countries, and the Supreme Court of Norway is a member of several international organizations.

## **III. Interactions between European courts in the jurisprudence of constitutional courts**

The Norwegian courts will adhere to decisions from both the Court of Justice of the European Union and from the European Court of Human Rights. The interaction between the two mentioned European courts influences the jurisprudence of the Supreme Court of Norway to a modest extent.