Request for an Advisory Opinion from the EFTA Court by Héraðsdómur Reykjavíkur dated 17 December 2013 in the case of LBI hf. v Merrill Lynch Int. Ltd

(Case E-28/13)

(2014/C 121/05)

A request has been made to the EFTA Court by a letter dated 17 December 2013 from Héraðsdómur Reykjavíkur (Reykjavík District Court), which was received at the Court's Registry on 17 December 2013, for an Advisory Opinion in the case of LBI hf. v Merrill Lynch Int. Ltd, on the following questions:

1. Should Article 30(1) of Directive 2001/24/EC, on the reorganisation and winding up of credit institutions, be interpreted as meaning that 'the voidness, voidability or unenforceability of legal acts' refers to the rules on the rescission of measures taken by a financial undertaking according to rules that are comparable to those that apply to the rescission of measures taken by a bankrupt individual under the Bankruptcy (Etc.) Act?

2. If the answer to the first question is in the affirmative, should Article 30(1) of the Directive be interpreted as meaning that it is sufficient for the party against whom a demand for rescission is directed to present proof that rescission of the measure would not be permitted under the laws of the Member State applicable to the measure, with reference to rules of any type, e.g. rules on time limits for taking legal action?

3. If the answer to the second question is in the negative, should Article 30(1) of the Directive be interpreted as meaning that it is necessary for the party against whom a demand for rescission is directed to present proof that the conditions for rescission under the laws of the Member State applicable to the measure have evidently not been met, e.g. because there is a complete lack of authorisation for the rescission of the type of measure involved?