

EFTA SURVEILLANCE
AUTHORITY

ESA AT A GLANCE



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MAKING THE EEA AGREEMENT WORK

2017 was a milestone year for European cooperation - 25 years since the signing of the EEA Agreement. Today, the Agreement still secures a place for the 5.5 million people of the EFTA States of Iceland, Liechtenstein and Norway in the European market of 500 million people.

At the EFTA Surveillance Authority (ESA) we do our part to enable Iceland, Liechtenstein and Norway's continued participation in the European Internal Market by monitoring compliance with the EEA Agreement.

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DID YOU KNOW?

You can sign up for ESA's newsletters. Check our website www.eftasurv.int for information.

ESA is independent of the EFTA States and safeguards the rights of individuals and undertakings under the EEA Agreement, ensuring free movement, fair competition and control of state aid.

ESA's work helps remove barriers to trade with the aim to open up new opportunities and create jobs and sustainable growth in Iceland, Liechtenstein and Norway. The

EEA Agreement also ensures environmental protection and gives a platform for social progress, be it to increase worker welfare, equal treatment or consumer protection.

Under the leadership of a three-member [College](#), ESA employs more than 70 experts in law and other fields from all over Europe. Our staff actively share information and knowledge about the EEA Agreement.

On the following pages, you can read about some of ESA's cases in 2017 and learn more about the rights the EEA gives you.

Bente Angell-Hansen
President

Frank J. Büchel
College Member

Högni S. Kristjánsson
College Member

ONE EUROPEAN MARKET

The EEA Agreement guarantees that the three EFTA States of Iceland, Liechtenstein and Norway, together with the 28 EU States, can enjoy the four freedoms: the free movement of services, goods, workers and capital in the European Internal Market. In a successful and fair [single market](#) everyone plays by the same rules.

ESA's role is to make sure that Iceland, Liechtenstein and Norway implement and follow the common rules. ESA acts if the States fail to incorporate new EEA rules correctly or in a timely manner, or if they breach or misapply EEA law.

As a measurement of this, ESA produces an Internal Market Scoreboard twice a year. The scoreboard shows how the States are performing in transposing new EEA directives and regulations into their national legal orders. The latest **2017 [scoreboard](#)** shows that Iceland needs to take action to reduce its very high deficit of 18 directives. Liechtenstein has ten directives outstanding, while Norway continues to perform well with only two directives outstanding.

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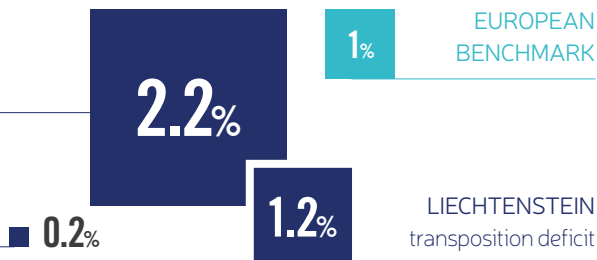
DID YOU KNOW?

A functioning Internal Market stimulates competition and trade, job creation and economic growth, it raises quality and helps cut prices for consumers.

KEEPING SCORE

ICELAND
transposition deficit

NORWAY
transposition deficit



HOW ESA INVESTIGATES

ESA closely monitors how the three EFTA States are performing and will open an investigation when it becomes aware of potential problems concerning the rules governing the Internal Market.

*ESA can take action on the basis of complaints or on its own initiative. ESA's investigation may lead to formal infringement **proceedings** being launched to protect the rights of both individuals and undertakings.*

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DID YOU KNOW?

Anyone can file a **complaint** with ESA if they believe their EEA rights have been violated.

THREE FORMAL STEPS OF AN INVESTIGATION

1



ESA sends a **letter of formal notice**, setting out ESA's view and giving the State a chance to respond.

2



If the issue is not resolved, ESA may deliver a **reasoned opinion** requesting that the State comply with EEA rules.

3



ESA may ultimately bring the case to the **EFTA Court**, which will have the final say.

ESA WORKS FOR YOU

The EEA Agreement provides a whole host of rights to people across the EEA. In Iceland, Liechtenstein and Norway, ESA works to make sure that you can reap the benefits of the Agreement in full.

Patients' rights in Norway

Under certain conditions, the EEA Agreement gives **patients** the right to seek hospital treatment in other European countries. However, after receiving several complaints, ESA sent a reasoned opinion to Norway in 2017 because Norwegian authorities make it too difficult to get authorisation or reimbursement in such cases.

The Norwegian system lacks the clarity, precision and transparency required by the EEA rules on patients' rights. This makes it hard for patients to navigate the system and fully understand their rights.

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DID YOU KNOW?

The EEA Agreement provides social rights and protection to the citizens of Iceland, Liechtenstein and Norway.



EQUAL TREATMENT IN THE EEA

Non-discrimination is a fundamental principle of EEA law. The EEA Agreement ensures equal treatment in several areas, such as between male and female workers.

Parental leave in Norway

In Norway, certain limits on paid [parental leave](#) only apply to fathers. The result is that mothers are explicitly granted more comprehensive rights to paid leave.

ESA found that the Norwegian system gives rise to discrimination on grounds of sex, and Norway is in breach of EEA rules. As a result, ESA sent a reasoned opinion to Norway in 2017 stating that Norwegian authorities are not respecting their EEA obligations.

Insurance in Liechtenstein

Liechtenstein fails to fulfil the fundamental EEA principle of [equal treatment](#) and non-discrimination between men and women in insurance premiums. Therefore, ESA sent a reasoned opinion to the Liechtenstein authorities in 2017. Under EEA law, Liechtenstein cannot allow insurance companies to use sex as a factor when they calculate premiums and benefits, leading to different rates for men and women.

Sports in Iceland

Iceland breaches EEA rules when the **Icelandic [Basketball Association](#)** only allows one foreign player at a time on court during matches. ESA sent a reasoned opinion to Iceland in 2017 for denying EEA citizens the same rights as Icelandic citizens.

When a sport takes on the form of gainful employment, it falls within the scope of the free movement of workers and is consequently subject to EEA law. Therefore, the right to legal protection against discrimination also applies in sports.

EUROPE ON THE MOVE

All modes of transport are covered by the EEA Agreement, making the EEA economy more competitive and consumer driven.

ESA monitors EEA legislation and carries out on-site inspections. This contributes to safe, efficient and sustainable transport of cargo and passengers throughout the EEA.

Taxi regulation in Norway

ESA believes Norway's restrictions on the [taxi services market](#) affect consumers and are in breach of EEA rules.

ESA is concerned that national legislation in Norway limits the number of taxi licences available in a licence district. The Norwegian restrictions prevent new entrants from entering the market. This leads to an inefficient use of resources and to increased prices for consumers.



DID YOU KNOW?

ESA works with national transport authorities in Iceland, Liechtenstein and Norway to keep you safe and secure while travelling.

Norway announced in December 2017 that it plans to amend its existing legislation. The new proposal will include a removal of the numerical limitation of licences and new rules on how licences are allocated. ESA will monitor the process.

KNOW YOUR RIGHTS

When travelling, sometimes things go wrong. If your train, flight, bus or boat is delayed or the trip is cancelled, the EEA Agreement is there for you. If you run into trouble travelling within the EEA, you have the same rights as passengers within the European Union.

This includes the right to information, possible compensation for delays, denied boarding and cancellations and much more. Travellers with disabilities are also protected by EEA law.



Were you denied boarding?



Was your boat delayed?



Is your luggage lost?



DID YOU KNOW?

You can find out about your rights on [ESA's website](#) in English, German, Icelandic and Norwegian. If you want to submit a complaint on passenger rights, get in touch with your national transport authority.

KEEPING YOUR FOOD SAFE

EEA legislation sets high European standards for food safety, feed safety and animal health and welfare.

*As an EEA citizen, you have the **right to know** how the food you eat is produced, processed, packaged, labelled and sold, and to trust that the food you buy is safe.*

Food safety legislation should be adopted quickly and implemented in the same way everywhere in the EEA to ensure that the Internal Market in food is both safe and effective. It is important that everyone operates under the same requirements.

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DID YOU KNOW?

You can find ESA's reports on food safety standards and more for Iceland and Norway on our [website](#).

Food imports to Iceland

In 2017, ESA argued [two cases](#) before the EFTA Court regarding Iceland's import restrictions on fresh meat, egg and dairy products.

Food trade within the EEA is subject to a number of regulations designed to guarantee the safety of products, and national authorities carry out controls based on harmonised standards. ESA argued that Iceland through strict additional measures created unnecessary and unsubstantiated trade barriers, limiting product choice for Icelandic consumers. The EFTA Court confirmed ESA's view. Iceland is obliged to comply with the Court judgment.

FROM FARM TO FORK

ESA is responsible for monitoring how Iceland and Norway implement EEA food safety, feed safety and animal health and welfare legislation.

To do this, ESA carries out audits in both countries, while Liechtenstein is subject to a different surveillance system for food safety.

Fighting food-borne illness

[Campylobacteriosis](#) is the most frequently reported food-borne illness in the EEA. Tackling the bacteria has been a priority in Iceland and Norway over recent years. After a series of fact-finding missions conducted in the EEA by the European Commission and ESA, a report was published in 2017 setting out measures implemented along the poultry food chain in EEA countries. In the report, ESA notes that the action plans in Iceland and Norway seem to be effective.

AUDITS IN 2017

NORWAY



Animal by-products



Antimicrobial resistance
(fact-finding)



National audit systems



Import controls and use
of TRACES

ICELAND



Feed safety



Import controls and use
of TRACES

THE EUROPEAN ECONOMIC AREA IN A NUTSHELL

The European Economic Area (EEA) removes barriers to trade and red tape so **individuals, consumers** and **businesses** alike can make the most of the opportunities offered to them by having direct access to 31 countries and 500 million people. The cornerstones of the European Internal Market are the four freedoms – free movement of workers, goods, services and capital.

31

countries



The EEA unites EFTA States Iceland, Liechtenstein and Norway with the 28 EU Member States in an Internal Market governed by the same basic rules.





500



million people

The EEA Agreement adds the approximately 5.5 million people of Iceland, Liechtenstein and Norway to the EU market of some 500 million people.

4



freedoms



Workers



Capital



Goods



Services

STATE AID IN THE EEA

State aid is public support to commercial activities. It can take many forms, for example cash grants, tax breaks or favourable loans.

The EEA Agreement prohibits state aid in order to ensure a **level playing field** for companies across Europe, and to prevent protectionism. Exemptions can be made for purposes such as environmental protection, regional support and research, innovation and development. To a large extent, such aid may be granted without prior approval from ESA through a block exemption system.

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DID YOU KNOW?

Norway spends almost **EUR 3 billion** a year on state aid, Iceland **EUR 77 million** and Liechtenstein close to **EUR 2 million**.

If a measure is not covered by an exemption, the EFTA States must notify state aid to ESA for approval. State aid received in breach of the rules may have to be paid back.

THE EEA GOES GREEN

Environmental policy is a priority in the EEA, and one of the most important exceptions to the general ban on state aid. ESA approved several green projects in 2017.

Zero-emission cars

The EEA Agreement enables Norway to subsidise [electric cars](#) to benefit the environment, and in 2017 ESA approved a new, limited period of state aid for zero-emission vehicles through tax exemptions.

ESA greenlighted three years of zero VAT rating for electric cars, waiving some NOK 3.2 billion (EUR 325 million) in VAT a year. Other aid measures notified for zero-emission vehicles by Norway were approved for six years.

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DID YOU KNOW?

ESA holds seminars for both **local**, **regional** and **national** authorities to spread knowledge about state aid rules and the EEA.

Carbon capture

Making carbon capture work is important for the whole of the EEA. Norway is making a key contribution with grants for the [CO₂ Technology Centre Mongstad](#). In 2017, ESA approved a three-year extension of Norway's aid scheme for the carbon capture testing centre.

In 2017, ESA also gave the go-ahead for Norwegian public financing of studies for full-scale demonstration projects for [carbon capture](#) and storage (CCS).

FAIR & HEALTHY COMPETITION

Competition law enables markets to work effectively for the benefit of consumers.

EEA competition rules prohibit anti-competitive coordination between companies, such as agreeing to fix prices or to refrain from competing head on. The rules also prohibit dominant companies from abusing their market power, for example by obstructing their rivals' ability to compete.

Competition not only pushes prices downward, but also provides consumers with greater choice. Competition further encourages companies to be innovative, and to deliver high-quality products and services.

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DID YOU KNOW?

ESA may conduct dawn raids on undertakings to secure evidence of possible violations of the EEA competition rules.



PROTECTING CONSUMERS

ESA's role is to ensure that companies operating in the EFTA States abide by the EEA competition rules.

ESA enjoys wide powers of investigation in the competition field to make sure that healthy competition benefits consumers.

E-payments, communications and transport

Throughout 2017, ESA continued its formal investigation of members of the Norwegian banking sector. ESA is looking into why [Norwegian consumers](#) were unable to benefit from a new type of e-payment service available in most other EEA countries.

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DID YOU KNOW?

ESA may impose fines of up to **10%** of annual global turnover on undertakings that breach the competition rules.

The investigation concerns DNB, Nordea, Finans Norge, together with a related organisation called Bits, and BankID Norge. ESA is investigating whether they prevented the Swedish company Trustly from entering the e-payment services sector in Norway in contravention of EEA competition law. Relevant industry rules are similarly being assessed.

ESA also progressed other open investigations into possible abuses of market power by incumbents in the [mobile communications](#) and [regional air transport](#) sectors in Norway.

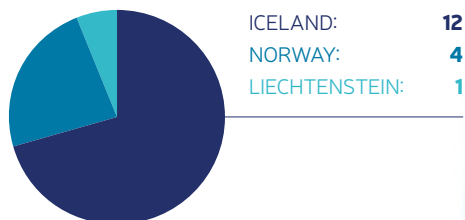
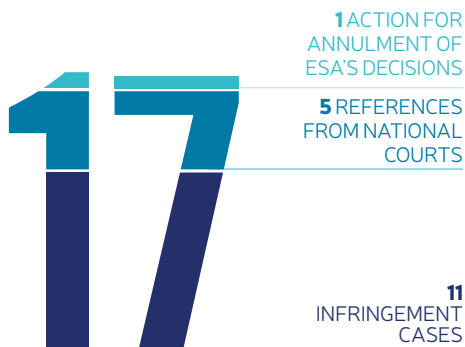
ESA IN ACTION

ESA monitors the correct implementation and application of EEA law by Iceland, Liechtenstein and Norway.

If the EFTA States do not fulfil their obligations, ESA can bring the matter to the EFTA Court. However, most shortcomings can be solved out of court, either before or after ESA raises matters in a formalised dialogue with the States.

The EFTA Court also hears cases brought against ESA's decisions, and delivers advisory opinions in response to requests from courts in the EFTA States to interpret EEA law. ESA participates in all cases before the EFTA Court.

CASES LODGED BEFORE THE EFTA COURT IN 2017



ESA IN COURT

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DID YOU KNOW?

ESA participates in cases before the EU courts where the issues raised are likely to have a particular impact on EEA law. In 2017, ESA submitted observations in two such cases.

Marine Harvest: a question of jurisdiction

In 2017, ESA faced seafood company [Marine Harvest](#) in the EFTA Court.

ESA declined jurisdiction to take on Marine Harvest's state aid complaint against Norway. The company then asked the Court to declare that ESA has the competence - and indeed is obliged - to oversee the compliance of state aid to the fisheries sector. ESA argued that it has no power under EEA law to carry out state aid surveillance here. The Court agreed and dismissed the application.

Work time and travel time

In 2017, the Norwegian Supreme Court requested an advisory opinion from the EFTA Court on whether employees can clock working hours when they are instructed to [travel](#) to their job in a place other than their normal place of work.

The Court concluded that time spent outside normal working hours on a journey to another place of work at the instruction of the employer should indeed be considered to be working time.

SEE WHAT WE DO

ESA works to increase awareness of the EEA Agreement and has a policy of open and transparent operations. This is ensured by providing public access to documents and lists of decisions as well as frequent publishing of [press releases](#) and updates on [social media](#).

[Minutes](#) of the weekly College meetings are available online. In addition, ESA's website contains a complete online register of all state aid decisions taken.

DID YOU KNOW?

Asking for access to ESA documents is easy. It only takes an email to registry@eftasurv.int.

KEY NUMBERS 2017

72

Access requests received

255

Documents assessed

233

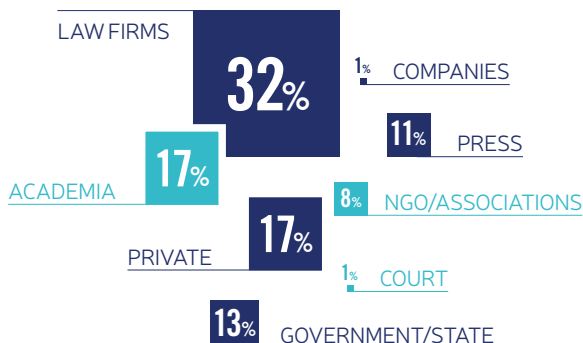
Full & partial access granted

Get access

Anyone can ask to see [documents from ESA](#). Documents are normally made publicly available upon simple request, though ESA may refuse disclosure in certain circumstances. Once a document has been disclosed, it is uploaded to ESA's website.

Want to read more about ESA's work in 2017? Check the full [Annual Report](#) online.

WHO ASKS FOR PUBLIC ACCESS?



FINANCIAL HIGHLIGHTS

ESA's 2017 budget was **EUR 14.5 million**, an increase of 3.7% compared to 2016.

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DID YOU KNOW?

ESA is financed **89%** by Norway, **9%** by Iceland and **2%** by Liechtenstein.

Financial performance

(amounts in EUR rounded to 000s)

	Outcome 2017*	Budget 2017
Financial income	3	0,5
Other income	275	46
Contributions from the EEA/EFTA States	14 492	14 492
Total Income	14 770	14 539
Salaries, benefits, allowances	10 733	11 328
Travel, training, representation	637	897
Office accommodation	1 210	1 210
Supplies and services	1 016	1 098
Financial costs	8	6
Other costs	0	0
Total expenditure	13 604	14 539
Financial performance	1 166	0

* preliminary and unaudited

WORK AT ESA

ESA *provides an opportunity to work on interesting issues in EEA law.*

ESA employs highly skilled and experienced professionals with a keen interest in European law and the EEA Agreement. Case handlers work with a portfolio of cases extending over a variety of legal areas within the departments of ESA.

Staff are normally employed on fixed-term contracts for three years, usually renewed once, but ESA also offers shorter temporary positions. Vacancies are regularly advertised on the ESA website.

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DID YOU KNOW?

ESA encourages citizens from Iceland, Liechtenstein and Norway to apply for positions. Interested? Check out www.eftasurv.int/jobs

Traineeship

Each year, ESA invites [trainees](#) to join the team for 11 months. The traineeship provides young professionals and recent graduates from Iceland, Liechtenstein and Norway with an opportunity to work in the field of EEA law.

The trainees take part in the daily work of ESA's different departments. They assist case handlers to get hands-on knowledge of the functioning of the EEA Agreement and learn about the workings of the other EEA and EU institutions.

www.eftasurv.int/trainee



2017 TRAINEE TEAM

LEARN ABOUT THE EEA

Moot Court competition

The [EEA Law Moot Court](#) provides a unique opportunity for [Norwegian](#) and [Icelandic](#) law students to deepen their understanding of EEA law and to gain practical advocacy experience in English.

ESA runs the Moot Court every other year in Norway and Iceland. In a moot competition, students act as advocates representing different parties in an EEA case. The aim is to reproduce, as closely as possible, the discussion and argument of a genuine hearing in the EFTA Court. As well as providing participating law students with excellent learning opportunities and course credits, the Moot Court competition prize is an intensive VIP study visit to Brussels and Luxembourg.

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DID YOU KNOW?

You can come visit. ESA frequently delivers public presentations to visitors, and ESA's staff also regularly attend conferences and seminars.



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