

ESA at a glance



Making the EEA agreement work

Twenty-five years ago, the people of Iceland and Norway joined their European neighbours to establish a European Economic Area (EEA) that now spans 31 countries and 500 million citizens. Liechtenstein joined the following year.

The EEA has been the foundation for social and economic progress. Working together, the EEA States have been able to improve people's lives by generating favourable economic conditions for work by raising standards for social protection, the environment and health, and opening up new opportunities to travel, work, study, and live throughout the EEA.

Iceland, Liechtenstein and Norway, together with the EFTA Surveillance Authority (ESA) and the EFTA Court have developed the EFTA pillar of the EEA over the past 25 years and have shaped this pillar through their ideas and values.

In that time, the EEA generation has grown up with a wealth of opportunity, and in an environment in which the benefits of the EEA can be seen and felt in everyday life. Meanwhile the cohesion and international cooperation generated by the EEA has become increasingly important as a foundation for our society in a time of rapid and global change. It is important that the EEA generation, and all Europeans, know about the impact the EEA agreement has on their lives.

The shared values between European nations, and their ability to cooperate closely on an equal footing serves as an invisible anchor, safeguarding our ability to shape our own destiny.

DID YOU KNOW?

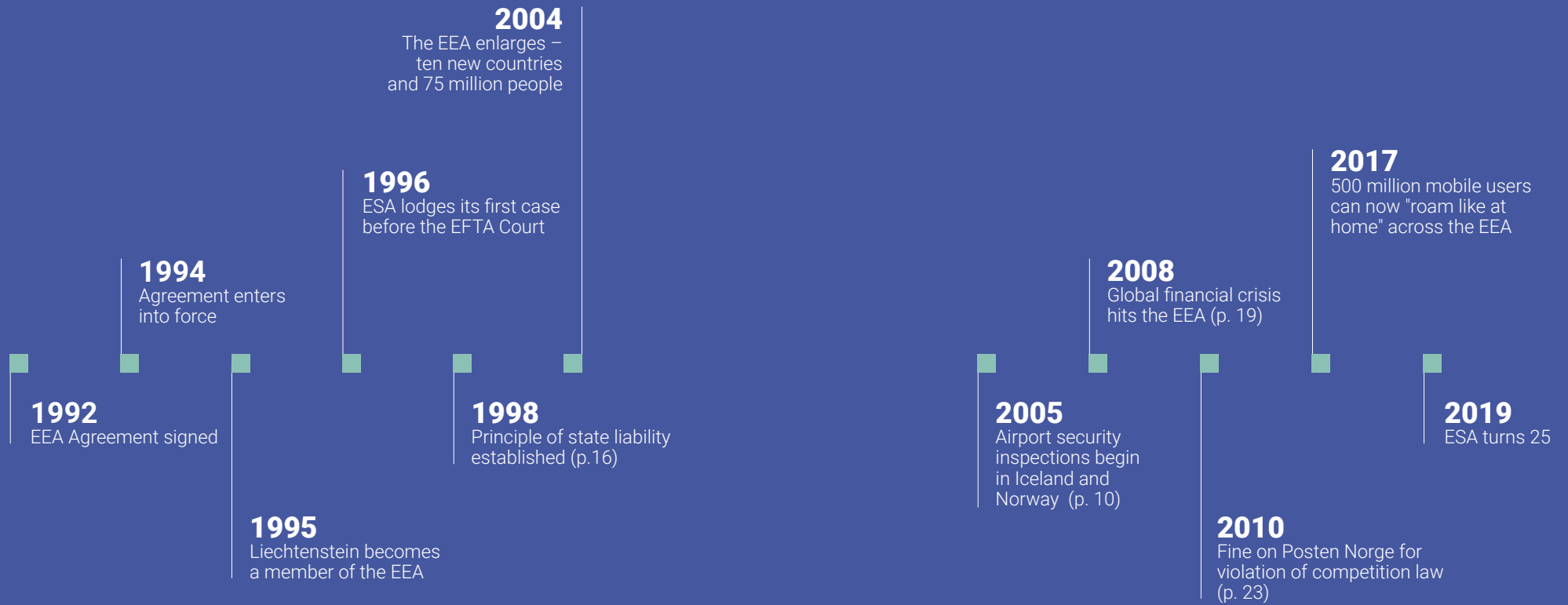
You can sign up for ESA's newsletters. Check our website www.eftasurv.int for information

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Photos on page 2, 7, 10, 12, 17, 20, 24,
25 and 27 by Geert Vanden Wijngaert



25 years of European cooperation



One European Market

The EEA Agreement provides a wide range of rights to people across the European Economic Area.

In Iceland, Liechtenstein and Norway, ESA works to make sure you can reap the benefits of the EEA Agreement in full. It guarantees that people and businesses in the three EFTA States, together with those in the EU Member States, can enjoy the four freedoms. In a successful and fair Internal Market, everyone plays by the same rules.

The four freedoms



Persons



Capital



Goods



Services

ESA's role is to make sure that Iceland, Liechtenstein and Norway implement and follow the common rules of the Internal Market.

ESA acts if the EFTA States fail to implement new EEA rules correctly or in a timely manner, or if they breach or misapply EEA law.

DID YOU KNOW?

Anyone can file a complaint if they believe their EEA rights have been infringed.

DID YOU KNOW?

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



How ESA investigates

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

Action is taken on the basis of complaints or on ESA's own initiative. The investigation may lead to formal infringement proceedings being launched to protect the rights of individuals and undertakings.

Three formal steps of an infringement procedure

1. ESA sends a **letter of formal notice**, setting out ESA's view on why the State's conduct breaches EEA law, giving the State a chance to respond.
2. If the issue is not resolved, ESA may deliver a **reasoned opinion** requiring the State to comply with EEA rules.
3. ESA may ultimately bring the case to the **EFTA Court**, which will have the final say.

Védís Eva Guðmundsdóttir investigates Internal Market cases

Three formal steps of an investigation



Letter of formal notice



A reasoned opinion



Bring the case to court



Market access

The EEA Agreement ensures that consumers and businesses across Europe have access to the same market. Where shortcomings cannot be resolved through constructive dialogue with the State concerned, ESA has the possibility to bring Iceland, Liechtenstein and Norway before the EFTA Court for breaches of EEA law.

2001 Opening the market for new products

ESA challenged a Norwegian ban on the sale of fortified breakfast cereals. The EFTA Court concluded that Norway had failed to fulfil its EEA obligations, as it had been inconsistent in which products it had allowed to be sold and which it had banned. This is one of the best-known examples where EEA law facilitated the placing of a product on the market of an EFTA State.

2002 Discriminatory taxes

In Norway, national lottery prizes above 10 000 NOK were exempted from income tax. In contrast, if a Norwegian resident won an equivalent amount in a lottery abroad, they were forced to pay tax on their winnings. This made it less attractive for foreign lotteries to offer games to Norwegian residents. ESA saw this as a restriction on the freedom to provide services, and this ultimately led Norway to amend its rules.

While ESA does not interfere with the general taxation policies of the EFTA States, it may intervene if it considers that taxes are discriminatory, for example by unjustifiably restricting one of the four freedoms or by infringing state aid rules.



Liechtenstein

Equal treatment



Non-discrimination is a fundamental principle of EEA law. All EEA nationals have the right to enjoy equal treatment in the workplace, regardless of their religion or beliefs, disability, age, sex or sexual orientation. ESA has played a vital role in overseeing the implementation of the Equal Treatment Directive in Iceland, Liechtenstein and Norway.

2007 Survivor's pension in Norway

ESA brought Norway before the EFTA Court for discrimination between men and women. Under Norwegian rules, a widow whose spouse had become a member of the Public Pension Fund prior to 1 October 1976 would be entitled to a full survivor's pension, whereas a widower in the same situation would receive a more limited survivor's pension. The Court ruled that this difference in treatment represented unlawful discrimination.

2017 Insurance in Liechtenstein

Under EEA law, a state cannot allow insurance companies to use gender as a factor when they calculate premiums and benefits, leading to different rates for men and women. ESA initiated infringement proceedings in order to ensure that Liechtenstein fulfilled its obligation to ensuring equal treatment and non-discrimination between men and women.

DID YOU KNOW?

The EEA Agreement provides social rights and protection to the citizens of Iceland, Liechtenstein and Norway and citizens of the other EEA countries who reside in the EFTA States.

Passenger safety

EEA law affects all modes of transport. The regulations concerning transport and passenger rights make the EEA economy more competitive and consumer-driven.

Inspections

One of ESA's main responsibilities in the field of transport is to carry out inspections in the EFTA States in order to monitor the application of EEA aviation and maritime security legislation.

ESA ensures that passengers are able to travel securely by sea and by air.

DID YOU KNOW?

ESA works with national transport authorities to keep you safe and secure while travelling.

Laurits Nielsen works on ensuring safe transport throughout the EEA



Know your rights

When travelling, sometimes things go wrong. If your train, flight, bus or boat is delayed, or the trip is cancelled, EEA law is there to ensure that your rights are safeguarded.

EEA law ensures that passengers have the right to information, possible compensation for delays, denied boarding or cancellations, and much more. EEA law also protects travellers with disabilities.



DID YOU KNOW?

You can find out about your rights on ESA's website in English, German, Icelandic and Norwegian.

- Were you denied boarding?
- Was your boat delayed?
- Is your luggage lost?

The EEA Agreement is there for you when your flight is delayed



Keeping your food safe

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

As an EEA citizen, you have the right to know how the food you consume is produced, processed, packaged, labelled and sold.

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

ESA is responsible for monitoring how Iceland and Norway implement EEA rules on food safety, feed safety and animal health and welfare. To this end, ESA carries out audits in both countries, while Liechtenstein is subject to a different surveillance system for food safety.

Diana Quilquini and Egill Steingrímsson from ESA's Food Safety Unit visit a fish farm in Norway



The Rapid Alert System for Food and Feed

Citizens of the EEA enjoy some of the highest food safety standards in the world. The Rapid Alert System for Food and Feed (RASFF) allows for swift exchange of information between national authorities on health risks related to food and feed within the EEA. If any health hazards are identified, all RASFF members are alerted and measures are taken to address the risks. These include withholding, recalling, seizing or rejecting products.

1999 Food safety facilitates market access

In 1999, the scope of the EEA Agreement was extended to include new regulations on food safety and veterinary issues. This was done, in part, to facilitate market access of fishery products from Iceland and Norway to the EU, so that time-consuming controls at EU Border Inspection Posts would not be necessary.

DID YOU KNOW?

In order to ensure uniform surveillance throughout the EEA, ESA and the European Commission regularly participate in each other's audits and consult one another on surveillance policy issues and individual cases.



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 persons, 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



Persons



Capital



Goods



Services

* The UK is in the process of leaving the EU



State liability

Citizens or businesses who have suffered financial losses as a result of a breach of EEA law by an EFTA State may seek financial compensation.

Rights arising from EEA law

In 1995, Ms Finanger, a 17-year-old Norwegian, suffered severe injuries in a road traffic accident, as the passenger of an intoxicated driver. Norwegian rules stated that car passengers who knew or ought to have known that the driver was under influence of alcohol were normally not entitled to compensation. The EFTA Court examined the Motor Vehicle Insurance Directives, taking into account the rules in other EEA States, and held that Norway was precluded from denying compensation to persons in Ms Finanger's position.

Failure to implement EEA Law

Mr Karlsson, an Icelandic importer, positioned himself to import and distribute alcohol in Iceland when the EEA Agreement came into force. Iceland's state monopoly prevented him from importing and distributing alcohol for almost two years. As a result, he incurred significant losses. The EFTA Court found that Iceland had breached EEA law and ruled that Mr Karlsson was entitled to financial compensation, provided the conditions for state liability were fulfilled.

The EEA Agreement does not contain explicit rules on the issue of state liability. However, the EFTA Court held that the principle of state liability was an integral part of the EEA legal order.

Ingibjörg-Ólöf Vilhjálmsdóttir litigates cases before the EFTA Court

DID YOU KNOW?

Alongside the *Sveinbjörnsdóttir* case, the *Karlsson* case is considered fundamental in establishing the principle of state liability in EEA law.



State aid in the EEA

State aid is public support for commercial activities. It can take many forms – such as cash grants, tax breaks or loans made on favourable terms.



The EFTA States must ensure a level playing field for companies across Europe and prevent protectionism. State aid received in breach of the rules may have to be paid back – however, there are a number of instances where state aid is permitted. In particular, the EEA Agreement makes exemptions for purposes such as environmental protection, regional support and research, innovation and development.

To a large extent, aid may be granted without prior approval from ESA, through a block exemption system. If a measure is not covered by an exemption, the EFTA States must notify the aid to ESA for approval.

ESA has adopted decisions in cases concerning a wide variety of aid schemes, including regional aid, research and development, large infrastructure projects, and the deployment of broadband.

State aid for media diversity

The media market in Liechtenstein is small. State aid aims at preserving diversity and pluralism of opinions, promoting journalistic-editorial quality and contributing to the effective exercise of democratic rights.

Since the first decade of the EEA Agreement, ESA has approved financial support to media in Liechtenstein, Iceland and Norway.

DID YOU KNOW?

Norway spends almost EUR 3.5 billion a year on state aid, Iceland EUR 95 million and Liechtenstein just above EUR 5 million.



Financial crisis

The 2008 global financial crisis affected the EEA in ways that produced both immediate and long-term effects.

State aid to banks

Iceland was hit particularly hard by the financial and banking collapse. This led to the Icelandic national authorities taking drastic measures to limit the impact of the crisis as three of the largest Icelandic banks fell into administration. The state refinancing of banks raised a number of state aid issues, with ESA becoming involved in assessing and approving emergency and rescue measures in both Iceland and Norway.

Icesave

The Icelandic bank Landsbanki collapsed, taking with it an online savings system known as Icesave. As a result, UK and Dutch depositors lost access to their savings.

EEA States were at the time obliged to establish schemes guaranteeing compensation to depositors. ESA initiated court proceedings on the basis that Iceland should have ensured that the minimum compensation was in fact paid out.

The EFTA Court found that EEA law did not oblige a state to ensure such compensation in the event of a systemic crisis like the financial crash, but noted that depositors may be protected by other EEA law provisions.

The Landsbanki estate eventually repaid the claims. The EU passed laws to improve protection for citizens in the event of any future financial crisis.

The EEA goes green

Environmental policy is a priority in the EEA, with a high number of regulations and directives dedicated to providing a greener world for EEA citizens. Protecting the environment can cost money, which is why environmental policy constitutes an important exception to the general ban on state aid.



In its role monitoring state aid, ESA has given the green light to several state projects that aim to reduce CO2 emissions and switch from fossil fuels to renewable sources of energy.

2015 State aid for environmental protection

Norway aims to increase the percentage of vehicles that run on renewable energy. In order to do so, Norway subsidises electric cars to benefit the environment. ESA has approved a limited period of state aid for zero-emission vehicles through a zero VAT rate as well as other advantageous measures.

Ketill Einarsson and Hans-Petter Håvås Hanson investigate competition and state aid breaches



Bergen, Norway



DID YOU KNOW?

The EEA Agreement works for cleaner rivers, lakes, groundwater and coastal waters across Europe. It helps ensure that the citizens of Iceland, Liechtenstein and Norway can enjoy water of the highest quality.

Public health

The EEA Agreement works to improve public health by holding EEA States responsible for improving and maintaining air quality to strict European standards. It also allows EEA States to introduce national measures to limit the risks associated with unhealthy products.

2015 Ambient air quality

Air pollution poses a significant threat to the health of citizens across the EEA and is a widespread problem in Europe. ESA brought Norway before the EFTA court after Oslo, Bergen, Trondheim, and other areas repeatedly exceeded the European limits for pollutants between 2008 and 2012. This resulted in Norway having to establish concrete action plans setting out measures to curb pollution in major cities across Norway, work which is still ongoing.

2011 Tobacco and smoking devices

When Norway amended its rules on tobacco advertising to include a ban on the visual display of all tobacco products in stores, a tobacco producer brought a court action challenging the ban, arguing that it was equivalent to a quantitative import restriction on the free movement of goods. The EFTA Court held that the EEA agreement permits EEA States to impose such possibly restrictive measures on the sale of tobacco products in order to protect citizens on public health grounds, as long as these measures are proportionate.

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.

The benefits of competition law are widely felt: healthy competition pushes prices downward, and provides consumers with greater choice. Competition further encourages companies to be innovative, and to deliver high-quality products and services.

DID YOU KNOW?

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

Reykjavík, Iceland

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.

2010 Posten Norge

After an investigation completed in 2010, ESA imposed a fine of EUR 12.9 million on Posten Norge AS for taking advantage of its dominant position through exclusivity agreements with important retail chains in the business-to-consumer (over-the-counter) parcel delivery market in Norway. This was the first time that ESA issued a competition fine. The fine was reduced on appeal to EUR 11.1 million.

2011 Color line

In 1991 Color Line secured exclusive usage rights to the harbour in Strömstad in Sweden through a contract with the local municipality for up to 25 years. In doing so, it essentially prevented competitors from establishing themselves on a busy ferry route with tax-free sales between Norway and Sweden for a substantial period. ESA fined Color Line EUR 18.8 million in 2011. The decision was not challenged.



DID YOU KNOW?

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



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 for adjudication. However, most shortcomings can be solved out of court, either before or while ESA raises matters in a formalised dialogue with the EFTA States.

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

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.

The staff at EFTA Surveillance Authority



Outreach and transparency

ESA works to increase awareness of the EEA Agreement and the rights and obligations flowing from it. ESA has a policy of open and transparent operation, which is ensured by providing public access to documents and lists of decisions.

ESA frequently publishes press releases and updates social media in order to keep you well-informed of the latest developments.

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.

Want to access our documents?

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 2018? Check our Annual Report online.

A policy of open and transparent operations.
Øystein Solvang, Head of Communications

DID YOU KNOW?

Asking for access to ESA documents is easy. Just email registry@eftasurv.int



Work at ESA

ESA provides a great opportunity to work on some of the most interesting issues in EEA law today.

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. ESA also offers shorter temporary positions. Vacancies are regularly advertised on the ESA website.

Trainee program

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, getting hands-on experience of the functioning of the EEA Agreement and learning about the workings of the other EEA and EU institutions.

www.eftasurv.int/trainee

DID YOU KNOW?

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



Learn about the EEA

Moot Court competition

The EEA Law Moot Court provides a unique opportunity for Icelandic and Norwegian 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 Iceland and Norway. 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 EEA Law Moot Court competition prize is an intensive VIP study visit to Brussels and Luxembourg.

DID YOU KNOW?

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

Trainees at ESA: Óskar Sæberg Sigurðsson, Agnes Vestmann and Jonas Nielsen



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