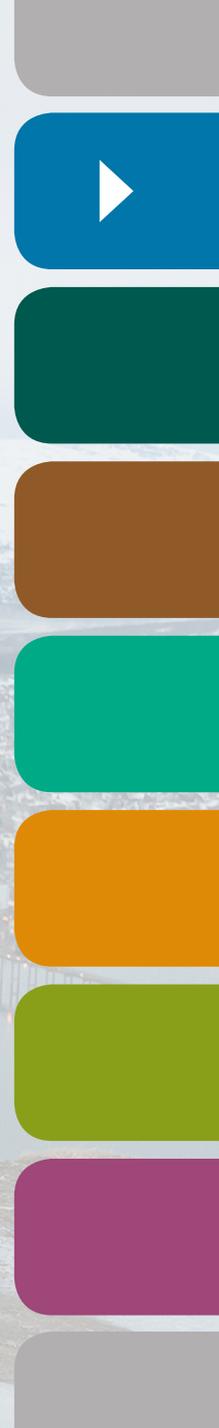




The EFTA  
Surveillance  
Authority  
*at a glance*  
2015–2016

EFTA SURVEILLANCE  
**AUTHORITY**



# Foreword

The EFTA Surveillance Authority (ESA) monitors the compliance of Iceland, Liechtenstein and Norway (the EFTA States) with the Agreement on the European Economic Area (EEA Agreement), enabling them to participate in the Internal Market of the European Union.

Control and guidance in the field of state aid is an important task for the Authority. Recent reform of state aid rules is gradually leading to significant changes in policy, allowing us to use more of our resources on the cases with the greatest impact on the Internal Market.

ESA's work helps remove barriers to trade and opens up new opportunities to some 500 million Europeans, adding to the international competitiveness of the

States. 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.

The EEA Agreement has been largely successful for more than 20 years. The economies of the European countries are more closely interwoven than ever before. It has become easier for citizens to work, travel, do business and study across national borders.

Keeping markets fair, level and open is good for our economies and societies. It establishes a good environment for business in Europe where companies can generate wealth, create jobs, and invest in the future.

We at ESA will continue to do our part in ensuring that EEA law is applied correctly in the EFTA States, and contribute to the homogeneity and the evolution of EEA law.

The Authority employs highly qualified staff, who enable us to fulfil our role and deal with tasks in an effective and efficient manner. We currently employ over 70 staff members of 15 nationalities. We carry out our functions in a manner which is visible, approachable and transparent. The Authority is open to continuous improvement at an organisational and individual level.

This brochure gives you an overview of our activities and highlights a few of the many cases handled in 2015. To read more about these and other cases, please visit [www.eftasurv.int/2015](http://www.eftasurv.int/2015)

We welcome any questions you might have about our activities, and should you be interested in looking for a career opportunity with us, we encourage you to get in touch.

College  
EFTA Surveillance Authority

## Key figures

Cases opened: **574**

Cases closed: **665**

Pending complaints: **139**

Budget 2015: EUR **13.2** million

financed by contributions from **Iceland (9%)**, **Liechtenstein (2%)** and **Norway (89%)**



Frank Büchel  
College Member

Helga Jónsdóttir  
College Member

Sven Erik Svedman  
President



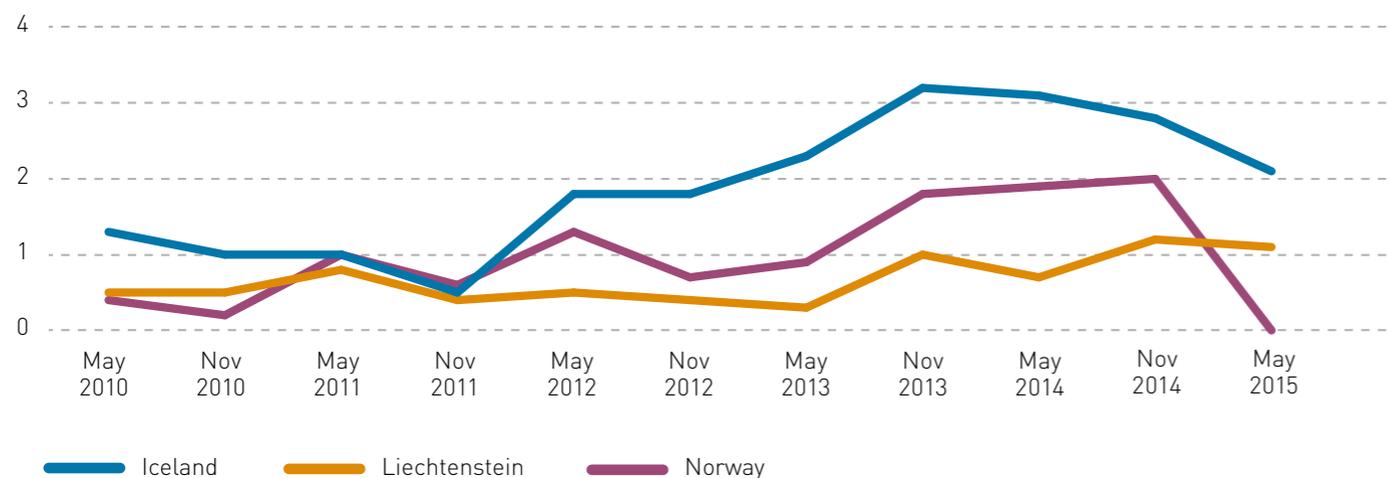
# Internal Market

The Internal Market is based on the rules concerning “the four freedoms” – the free movement of goods, persons, services and capital – which are at the core of European integration.

These rules are supplemented by a number of horizontal provisions, covering areas such as health and safety at work, labour law, equal treatment of men and women, consumer protection, environment and company law.

The Authority may take action if an EFTA State fails to incorporate these rules into its national law in a timely manner or is suspected of breaching EEA law.

Transposition deficit (% of directives not implemented in time)



## Implementation of directives and regulations in the EFTA States

An important part of the Authority’s monitoring work involves ensuring the timely implementation of EEA law through its infringement proceedings process.

### Steps in the right direction

Twice a year the Authority publishes the Internal Market Scoreboard, indicating how the EFTA States perform with regard to the timely implementation of new EEA directives, in comparison to the EU Member States.

In the latest Scoreboard, published in October 2015, Norway had the best performance of all the 31 EEA States, with not a single outstanding directive.

For Liechtenstein, there was room for improvement, as only five EEA States showed a higher deficit. And Iceland, despite having moved in the right direction, still had the highest deficit by far in the whole EEA.

### Rules on fireworks in Iceland

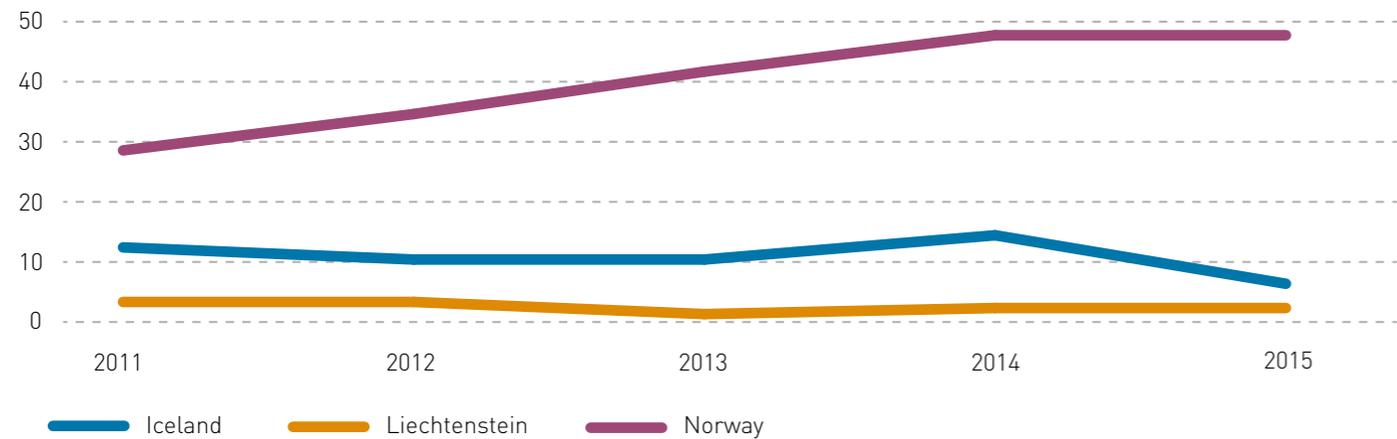
Long overdue, in September 2015, Iceland implemented a directive on fireworks into its national legislation. The directive should have been implemented in 2012.

When an EFTA State fails to comply with the obligation to introduce national legislation on time, the Authority opens an infringement case. This can eventually lead to court action.

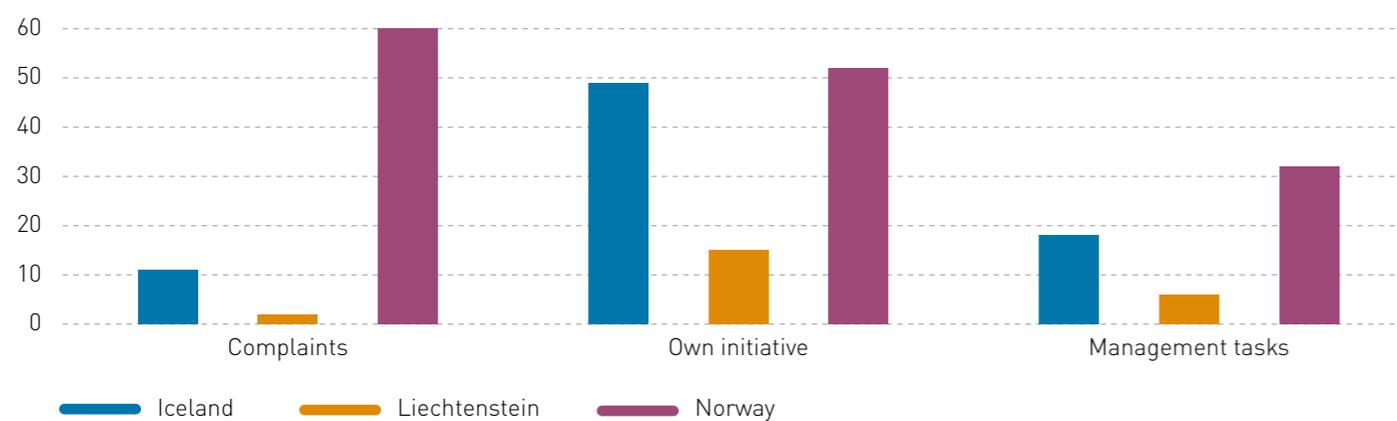
In the case at hand, despite an EFTA Court judgment affirming Iceland’s breach of the EEA Agreement, the directive was still not implemented; the Authority opened a follow-up case in 2014. The case is now closed.



Complaint cases opened 2011–2015



Pending cases at the end of 2015



## Concerned with the broader picture

When the Authority becomes aware of potential systemic problems within an EFTA State, it will investigate the underlying problems in a more general review, rather than by pursuing individual cases.

### The infringement procedure

An investigation of national legislation or practices can be initiated on the basis of the Authority's own surveillance of the EFTA States, or on complaints, which anyone may submit to the Authority.

Such an investigation may lead to the launching of formal infringement proceedings, which is a three step procedure:

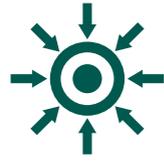
1. Letter of formal notice, setting out the Authority's opinion and giving the State a chance to comment and bring forward its arguments.
2. If the case is not solved at this stage, the Authority may deliver a reasoned opinion, asking the State to comply.
3. Finally, the Authority may bring the case to the EFTA Court which will then make a judgment in the case.

### Family reunification in Norway

Norwegian rules do not fully ensure the rights of Norwegians returning home from another EEA State to reunite their families. This was the Authority's conclusion of an in-depth assessment carried out following numerous complaints received in 2013, 2014 and 2015.

Once an EEA national has exercised his free movement rights, he falls under the protection of EEA law, including when he returns to his State of nationality. This protection includes the right, in certain circumstances, to bring his third country national family members along.

In its reply to the reasoned opinion, Norway disagrees with the Authority specifically on the rights of returning nationals who have not been economically active in another EEA State.



## Food safety and animal welfare

EEA legislation sets high standards for food safety and animal health and welfare. The Authority monitors that the relevant rules are transposed and applied correctly by the EFTA States.

In the case of an outbreak of serious animal disease or a food or feed crisis, the EFTA States are obliged to notify the Authority, which will review the measures taken to minimise the harm to public or animal health. To declare an area as free from specific animal diseases, national authorities need approval from the Authority.

On-spot inspections are an important tool for the Authority to ensure that the EFTA States comply with the extensive legislation. In 2015, the Authority's Services carried out six inspections to the EFTA States in various sectors of the veterinary, food and feed field.

### Inspections in 2015

#### 2 to Iceland:

- Hygiene of fishery products
- Verification of effectiveness of the import control system



#### 4 to Norway:

- Hygiene of fishery products
- Live bivalve molluscs
- Verification of effectiveness of the import control system
- Fact-finding mission: aquaculture



## Transport: legislation and security inspections

Efficient, safe and sustainable transport of goods, services and persons complements the development of the Internal Market and is fundamental to a more efficient and competitive EEA economy.

All modes of transport are covered by the EEA Agreement. Due to geographical location or lack of infrastructure, certain legislation applies to a limited degree in some of the EFTA States.

The Authority monitors all EEA legislation on transport, be it on land, in the air or at sea. To ensure compliance with aviation and maritime security rules, the Authority also carries out on-site inspections.

In the field of aviation, maritime and rail, the Authority co-operates with the EU transport agencies. The agencies provide the Authority with expert advice and assist with visits and inspections in the EFTA States, either in accordance with their own work programme or at the request of the Authority.



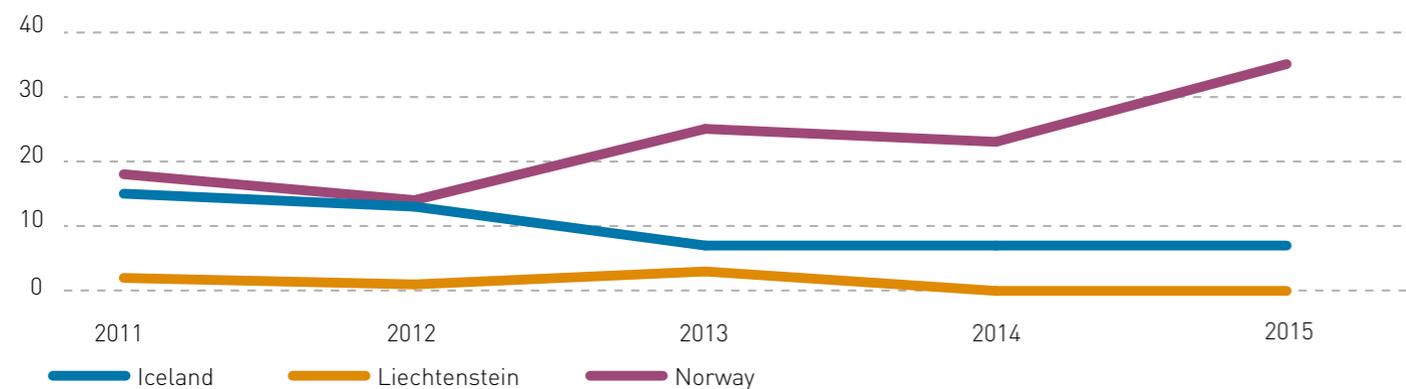
# State aid

State aid refers to public support in any form. Typical measures include tax breaks, favourable loans, guarantees or investments not based on market terms. Tax measures comprise more than 60% of all aid in the EFTA States.

The EEA Agreement contains a general prohibition on state aid in order to prevent distortions of competition and negative effects on intra-EEA trade. The rules seek to ensure equal opportunities for companies across Europe, and to prevent government assistance from being used as a form of protectionism in the absence of trade barriers.

The prohibition is, however, subject to exceptions, recognising that government intervention can be necessary to correct market failure and for other purposes.

## State aid notifications and pre-notifications received 2011–2015



## Enforcing the state aid rules

The general prohibition on state aid that applies in Iceland, Liechtenstein and Norway is enforced by the Authority. It is also the Authority's role to decide how the exceptions to the prohibition are to apply.

### Notification of state aid measures

Traditionally, aid has had to be notified to, and approved by, ESA before it could be granted. With a reform of state aid rules in 2014, the General Block Exemption Regulation (GBER) was extended significantly, exempting a wide category of aid measures from notification. Norway used the GBER for 87 measures in 2014–15. Iceland has exempted two important schemes. Liechtenstein has not yet made use of the GBER.

However, larger, more distortive and complex aid still requires prior notification.

Contrary to expectations of a significant decrease, ESA received 14 notifications in 2015. Environmental aid in Norway and power contracts in Iceland are among the significant notified cases dealt with by ESA in 2015.

### Green light to electric cars support

Norway's fleet of electric cars is the largest per capita in the world. Measures put in place by the Norwegian authorities have strengthened the demand for zero-emission cars and thus contributed to a greener transport sector.

In April 2015, the Authority approved the zero VAT rating together with other measures adopted to stimulate the demand for electric cars. Some of the measures had been in force since the 1990s.

Because the market for electric cars is rapidly changing, the approval is only valid until 31 December 2017.

# Competition

The competition rules in the EEA Agreement are equivalent to the competition rules in the EU. The rules prohibit agreements and conduct that distort or restrict competition. Such conduct can include price-fixing and market-sharing arrangements, which are almost always prohibited. The competition rules also prohibit dominant firms from abusing their market power.

The Authority's main task in the field of competition is to ensure that undertakings active in the EFTA States comply with the EEA competition rules. The Authority also supervises the application of the EEA competition rules by the competition authorities of the EFTA States.



## Enforcing the competition rules

The Authority enjoys wide powers of investigation and may impose fines of up to 10% of global turnover on undertakings that act in contravention of the rules.

### Assisting courts in competition cases

The Authority applies its competition expertise in a number of ways and, in 2015, it actively assisted the courts in cases involving the EEA competition rules.

For example, in May 2015 the Authority submitted written observations in a case before the Norwegian Borgarting Court of Appeal concerning alleged collusion in asphalt tenders in Norway. This entailed guidance on identifying when trade between EEA States may be affected.

In providing assistance on matters of legal interpretation, the Authority aims to ensure a consistent application of the EEA Agreement so that companies can operate seamlessly in the EEA, secure in the knowledge that the competition rules are aligned across countries.

### Color Line

A popular ferry route for tax-free sales between Norway and Sweden has been under scrutiny for a potential breach of the EEA competition rules. The Authority has concerns about Color Line's long-term preferential access to Sandefjord harbour on the Norwegian side.

Color Line and Sandefjord Municipality have offered to allow better access for competitors to sailing slots at the harbour. All stakeholders are invited to comment on the proposed commitments.

### Telenor

In 2015, the Authority continued its investigation of Telenor's commercial practices in the provision of mobile communications services in Norway. This led to a Statement of Objections being sent to Telenor in early 2016. The Authority will carefully consider all comments before reaching a final decision.

# Court proceedings

The Authority participates in cases before the European Courts in Luxembourg. This includes infringement cases that the Authority brings in the EFTA Court against Norway, Iceland and Liechtenstein when they have failed to comply with their obligations under EEA law.

Other cases before the EFTA Court are appeals against Authority decisions and requests by courts from the EFTA States to interpret EEA law. The Authority participates in all cases before the EFTA Court and in cases before the EU courts with a particular impact on EEA law.

## Cases lodged before the EFTA Court in 2015



## Clarifying and developing EEA law for citizens and business alike

The Authority ensures that EEA law is applied correctly in the EFTA States, and contributes to the homogeneity and the evolution of EEA law.

### Legal issues concerning new technologies

The Authority is currently taking a particular interest in the rapidly-developing legal issues surrounding the use of usually Internet-based new technologies in traditional industries, harnessing the disruptive power of innovations, such as Uber, Airbnb or Coursera, while ensuring that the legitimate interests of other stakeholders, and in particular consumer protection, are not compromised.

With 35 cases in total, most proceedings lodged before the EFTA Court in 2015 concerned cases brought by the Authority against the EFTA States: 20 cases, which is a record high, once again. The Authority also regularly intervenes in proceedings in the EU courts and on occasion participates in cases before national courts where issues of EEA law arise.

### Air quality in Norway

In 2015, the EFTA Court agreed with the Authority that air pollution is at unacceptably high levels in numerous places across Norway. It is the larger cities in particular that are struggling to reduce air pollution, which is a widespread problem across the EEA.

EEA legislation, in particular the Ambient Air Quality Directive, has established legally binding limits for certain pollutants present in the air which may pose a serious threat to public health.

The Authority began infringement proceedings against Norway following a complaint from the Norwegian Asthma and Allergy Association.

Norway now has to substantially improve air quality in line with the EEA rules on cleaner air for Europe.



# Openness and transparency

Communication and outreach activities are aimed at increasing knowledge about the Authority's role and tasks, and strengthening compliance with the EEA Agreement.

The Authority and its staff carry out their functions in an approachable and transparent manner, while still showing due concern for information that needs to be protected.

## Requests for public access:

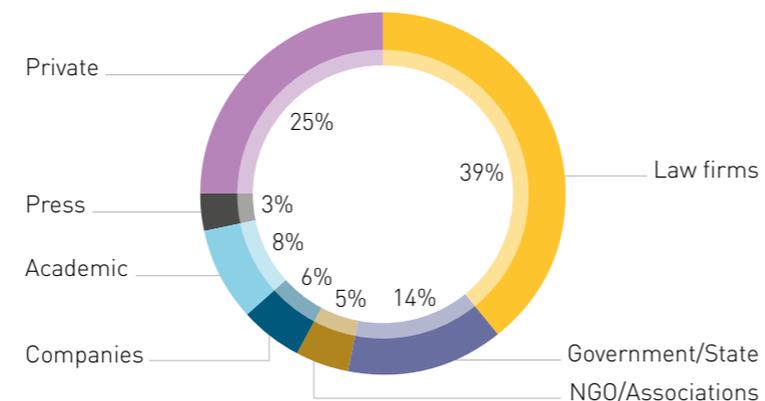
Access requests received in 2015	145
Requests received in 2014	155

Some requests concern several documents.

Total number of documents assessed:	318
Full access granted:	255
Partial access granted:	24
Access denied:	39

5 requests were withdrawn

## The requests came from the following groups:



## Openness is a core value at the Authority

The policy of open and transparent operations 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.

### Access to documents

Documents handled by the Authority are, as a main rule, publicly available upon simple request. The Authority can, however, refuse disclosure of certain documents. Once a document has been disclosed, it is uploaded to the Authority's searchable online Public Document Database, available to anyone.

For more information visit [www.eftasurv.int/access](http://www.eftasurv.int/access)

### List of decisions

Minutes of the weekly College meetings are also available online, listing all formal decisions taken by the Authority. In addition, the Authority maintains a complete register of state aid decisions.

### Visitor groups and seminars

Staff members frequently give public presentations to interested parties visiting Brussels. Such direct communication is well suited to give more in-depth information about the Authority and to invite further contact.

The Authority's College, directors and staff members also participate in a range of seminars and meetings in EFTA and EU Member States.

### Competition for law students

The very first EEA moot court competition was organised in Oslo in the autumn of 2015, with five participating teams, and in close co-operation with the student union, the university and several law firms.

EEA moot court competitions are planned in Reykjavik in 2016 and in Oslo in 2017.





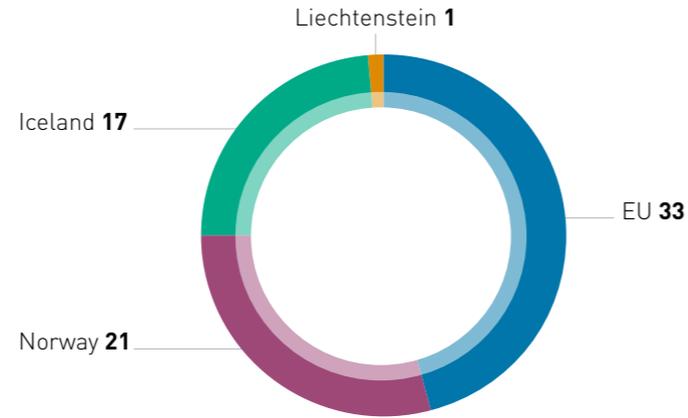
# Working at the Authority

Staff members of the EFTA Surveillance Authority work in a truly international environment. Strategically located in the European Quarter of Brussels, the Authority employs over 70 dedicated and competent officials, of around 15 different European nationalities.

Gender balance



Nationality



## Interested in international work experience?

The Authority 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 one of the departments of the Authority.

### An attractive work place

Working at the Authority provides an opportunity to work on interesting legal issues and develop skills and interests in an inspiring dynamic and multicultural environment.

Staff are normally employed on fixed-term contracts for three years, usually renewed once, but the Authority also offers shorter temporary positions. Due to the fixed-term nature of employment in the Authority, vacancies for highly qualified candidates are regularly available and advertised on the Authority website.

Emphasis is put on a good work/life balance and the Authority provides an attractive compensation package, including competitive salaries and favourable tax conditions and advantages. For staff members with children, an additional advantage of living in Brussels is the number of high quality international schools.

For more information visit [www.eftasurv.int/jobs](http://www.eftasurv.int/jobs)

### Traineeships

Being a trainee at the Authority is a great way to kick-start a successful career, whether you are looking to work within the private or public sector. Each year the Authority invites six candidates from the EEA EFTA States to join the team for 11 exciting months.

The traineeship is a paid position and includes a monthly allowance of € 1499 as well as furnished accommodation in Brussels.

The application process commences in January each year.

Find out more at [www.eftasurv.int/trainee](http://www.eftasurv.int/trainee)



# EFTA Surveillance Authority

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**EFTA SURVEILLANCE  
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