

State Aid Scoreboard for 2008  
for the European Economic Area EFTA States



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## Introduction

This is the fourth time that the EFTA Surveillance Authority (the “Authority”) has published a scoreboard on the amount of state aid granted in Iceland, Liechtenstein and Norway; the Contracting Parties to the EEA Agreement (referred to below collectively as the “EFTA States”). The latest scoreboard is the most comprehensive to date as it covers state aid granted in the EFTA States over the five-year period between 2004 and 2008. The accuracy of data referred to in previous scoreboards has also been reviewed, and where necessary, corrected.

The scoreboard is based on data submitted by the EFTA States in accordance with their obligations under the European Economic Area (“EEA”) Agreement and the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice. The methods for gathering data from the EFTA States and the manner of processing it is based on a reporting system introduced in 2004.

As in the case of previous editions, the latest scoreboard is a benchmarking tool for measuring the progress within the EFTA States of the policy objectives established by the European Commission in the “State Aid Action Plan”. The State Aid Action Plan was launched in 2005 and calls for “less and better targeted State aid”; using the state aid rules to contribute to the Lisbon Agenda by focusing aid on improving the competitiveness of the industry and creating sustainable jobs<sup>1</sup>. In practical terms this means that while overall state aid is to be reduced, aid towards certain horizontal objectives, such as research and development, innovation and risk capital is viewed more positively. While the State Aid Action Plan, including the Lisbon Agenda objectives, is principally a strategy for the European Union, it is relevant also to the EFTA States as the Authority and the EEA Joint Committee adopt measures for implementing the state aid rules which are similar to those applicable in the European Union.

The scoreboard has been prepared in co-operation with the European Commission. The scoreboard’s statistics have been calculated using a methodology similar to that applied by the Commission which should facilitate easy comparison between the two scoreboards and enable readers to obtain an overview of all aid granted across the EEA<sup>2</sup>. In addition, the close co-operation with the European Commission has made it possible to include comparisons between the amount of state aid granted by EFTA States with aid granted by certain EU Member States and the EU average. The EU Member States chosen for these comparisons are similar to the relevant EFTA States in terms of GDP, public spending, employment and population.

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<sup>1</sup> The Lisbon Strategy (also known as the Lisbon Agenda or Lisbon Process) is an action and development plan for the European Union, set out by the European Council in Lisbon in March 2000. The Lisbon Strategy intends to deal with the low productivity and stagnation of economic growth in the EU, through the formulation of various policy initiatives to be taken by all EU Member States - of which the broad ones are to be attained by 2010. The main fields are economic, social, environmental renewal and sustainability. Important economic concepts of the Lisbon Strategy are innovation as the motor for economic change, the “learning economy” and social and environmental renewal.

<sup>2</sup> As a result of this co-operation the Commission has in its latest scoreboard also published data on the EFTA States: [Scoreboard published by the European Commission: Autumn 2009](#)

The scoreboard prepared by the Authority differs from that of the European Commission due to the more limited scope of the EEA Agreement compared to the Treaty on the Functioning of the European Union (TFEU). The purpose of the EEA Agreement is to extend the internal market of the Union to the territories of the EFTA States through the application of the rules on the “four freedoms” (free movement of goods, persons, services and capital) and the competition rules. However, the agricultural and fishery policies of the Union are not part of the EEA Agreement and aid to these sectors is not, therefore, included in the scoreboard.

Like in the case of the version produced by the Commission, the financial crisis has influenced the content of this scoreboard. The Authority has therefore included a short summary of the influence of the crisis both on the analysis of state aid paid across the EEA, and other relevant factors such as fluctuations in currency exchange rates.

Another important area of state aid control concerns compensation for the provision of public service obligations. In its judgment in the *Altmark* case, the European Court of Justice ruled that compensation to undertakings that perform public service obligations does not constitute state aid, provided that certain conditions are fulfilled.<sup>3</sup> Compensation for public service obligations which fulfil the *Altmark* criteria is, therefore, excluded from the scoreboard. Conversely, not all public funding for public service obligations fulfil the *Altmark* criteria and this is, in principle, covered by the scoreboard. For the years 2004 to 2008 no aid was reported as having been granted by the three EFTA States for purposes of public service obligations.

The scoreboard covers existing aid granted under schemes or as *ad hoc* aid. It does not cover pending cases. Nor does it cover funding granted in line with the rules for granting *de minimis* support as such funding does not constitute state aid within the meaning of Article 61(1) of the EEA Agreement.

The scoreboard gives an overview of the state aid reported by the EFTA States from the beginning of 2004 to the end of 2008<sup>4</sup>. The scoreboard is divided into four main parts. **Part one** looks at the overall amount and type of state aid awarded by the EFTA States. **Part two** provides an overview of legislative and policy developments within the area of state aid. **Part three** reports on progress in recovery of unlawful and incompatible state aid cases and provides an overview of pending cases in this regard. Finally, **part four** sets out the information sources and methodology.

The scoreboard is available online at the homepage of the Authority:

<http://www.eftasurv.int/press--publications/scoreboards/state-aid-scoreboards/>

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<sup>3</sup> Case C-280/00 *Altmark Trans and Regierungspräsidium Magdeburg* [2003] ECR I-7747 was a reference for a preliminary ruling under Article 234 EC by a German national court (Bundesverwaltungsgericht) in the proceedings pending before that court. The case concerned the grant of licenses for scheduled bus transport services in the Landkreis of Stendal (Germany) and public support for operating those services.

<sup>4</sup> In addition, Parts Two and Three both cover all or part of 2009.

## The financial crisis

The financial crisis has had an exceptional impact on the EFTA States' economies, in particular in the case of Iceland. Iceland did not, however, notify any projects to grant state aid related to the financial crisis in 2008; and although Norway notified a scheme in 2008, it (as well as certain other measures) was not implemented until 2009. Liechtenstein has not, to date, notified any aid measures linked to the financial crisis. As a result, although the scoreboard concerns the period from 2004 to 2008, the impact of the financial crisis that started in October 2008 is not reflected, and the scoreboard does not include state aid granted by the three EFTA States to counteract the financial crisis.

The granting of state aid related to the financial crisis did, however, strongly influence the content of the scoreboard for 2008 recently issued by the European Commission. Given the Authority's practice of comparing state aid in the EFTA States with certain EU Member States and the EU-27 average, the financial crisis has, therefore, had a significant effect on the statistics for 2008 which underpin the scoreboard. The unprecedented amounts of aid granted in an attempt to alleviate the financial crisis across the EU impact upon comparisons between aid totals for the EFTA and EU states, not least because no financial crisis aid is included in the figures for the EFTA States for 2008. In consequence certain data has been presented both including financial crisis aid and excluding it – the latter considered to be a more accurate representation of the long term position.

Since state aid is granted in the domestic currency of each EFTA State, the exchange rate influences the amount of aid granted in Euro, which are the relevant figures for the purposes of the scoreboard. The exchange rate of the currencies of the EFTA States, particularly that of the Icelandic Krona, have experienced significant fluctuations following the start of the financial crisis in 2008. This is also reflected in this scoreboard as, in contrast to the method used in previous years, the exchange rate used to convert national currencies into Euro is the average rate for the year<sup>5</sup>. As a result, major currency fluctuations which occurred in the last quarter of 2008 have had the statistical effect of decreasing the amount of aid paid in 2008 in the EFTA States, particularly in the case of Iceland.

Although the impact of currency fluctuations in 2008 have been included, as referred to above the effects of the financial crisis in the EFTA States in terms of increases in state aid paid is not reflected in the scoreboard. Aid granted by both Norway and Iceland as a result of the financial crisis will, however, have a considerable effect on future scoreboards.

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<sup>5</sup> Average exchange rates are published by Eurostat. Previous scoreboards used the exchange rate on 1 January in a given year.

## 1 Part One: overall state aid granted in 2004 – 2008

In line with previous editions, the main aim of this scoreboard is to determine whether the policy objectives of the European Commission set out in its “State Aid Action Plan”, with the general aim of “less” and “better targeted” state aid, are being achieved by the EFTA States. As stated in the introduction, the State Aid Action Plan advocates a reduction in overall state aid, and more focus on aid to encourage horizontal objectives such as research and development and risk capital.

The amount of state aid granted in 2008 was, of course, greatly influenced by the financial crisis. However, the Authority has not completed its assessment of the support provided to banks and industry in Iceland in 2008 and neither of the other EFTA States granted financial crisis aid in 2008. The aid amounts of the EFTA States in the present scoreboard are, therefore, exclusive of assistance granted as a result of the financial crisis.

This chapter provides an overview of state aid granted in the EFTA States from 2004 to 2008 (inclusive) as well as of underlying trends. Broadly speaking, the overall state aid level in the EFTA States has increased in absolute terms over the period reviewed. This is largely because Norway has increased the amount of aid granted during the period reviewed. Both Iceland and Liechtenstein have shown signs of granting less aid, but the trend has not been continuous over the entire period reviewed. However, the EFTA States have granted “better targeted” aid over the period reviewed<sup>6</sup>. Finally, in terms of how EFTA States stand in relation to EU Member States; a comparative review reveals that if aid related to the financial crisis is *excluded* (for the EU Member States), Norway has granted more aid than the EU-27 average as a proportion of GDP in 2008. However, if financial crisis aid is *included* in the level of aid granted, Norway granted only a quarter of the EU-27 average as a proportion of GDP. The latter comparison is, however, less illustrative of the true picture since Norway did not implement measures to remedy the financial crisis until 2009. Both Iceland and Liechtenstein are among the countries that have granted the least amount of aid as a proportion of GDP in the EEA, irrespective of whether financial crisis aid is taken into account.

In the following graphs and tables, aid for various purposes is either calculated as a percentage of the overall level of state aid granted, or is measured as a proportion of GDP. Most data in Chapter 1 excludes transport aid. Much of the public financing of transport services (notably to railways) is not notified to the Authority often because the financing, due to the lack of liberalisation of the sector, is deemed by EFTA States not to constitute state aid. A statistical comparison of total aid granted is, therefore, more reliable when aid for transport is excluded. The data in this chapter is therefore exclusive of transport aid except for in sections 1.1 (on total aid amounts), and 1.2 (on sectoral aid).

All data in the scoreboard is set out in million Euro.<sup>7</sup>

<sup>6</sup> Cf. Graph D below which shows that Iceland has granted “better targeted” aid in 2008 while Norway and Liechtenstein have remained stable.

<sup>7</sup> Except for in Table 7 which sets out an overview of recovery amounts.

## 1.1 State aid in absolute and relative terms

**Table 1(a): EFTA States from 2004 to 2008 inclusive:  
Total state aid in absolute terms / at current prices (in million Euro, using annual average exchange rates)<sup>8</sup>**

EFTA State	2004	2005	2006	2007	2008
<b>Norway</b>	1,127.48	1,250.39	1,213.39	1,865.45	2,211.72
<b>Iceland*</b>	17.78	20.03	20.50	18.47	14.02
<b>Liechtenstein*</b>	1.14	1.08	0.83	0.84	1.11
<b>Total state aid EFTA States</b>	1,146.40	1,271.49	1,234.44	1,884.76	2,234.88
<b>Transport</b>	206.88	250.23	274.34	462.31	528.85
<b>Norway (excl transport)</b>	920.60	1,000.15	938.77	1,403.14	1,682.87

\* In Iceland and Liechtenstein, the total volume of state aid is the same, irrespective of whether transport is included, since none of them granted aid for this purpose.

**Table 1(b): EFTA States from 2004 to 2008 inclusive:  
Total state aid in relative terms / at constant prices (reference year 2000, re-referenced to 2008, in million Euro using annual average exchange rates)<sup>9</sup>**

EFTA State	2004	2005	2006	2007	2008
<b>Norway</b>	1,489.22	1,520.06	1,359.01	2,044.05	2,211.72
<b>Iceland*</b>	23.56	25.80	24.22	20.68	14.02
<b>Liechtenstein*</b>	1.31	1.19	0.87	0.86	1.11
<b>Total state aid EFTA States</b>	1,514.09	1,547.06	1,384.10	2,065.59	2,234.88
<b>Transport</b>	273.25	304.20	307.33	506.57	528.85
<b>Norway (excl transport)</b>	1,215.97	1,215.86	1,051.68	1,537.47	1,682.87

\*In Iceland and Liechtenstein, the total volume of state aid is the same for the years 2004-2008, irrespective of whether transport is included, since none of them granted aid for this purpose.

Table 1(a) provides an overview of state aid granted in current prices (the price when the aid was granted) in the EFTA States i.e. in absolute terms for each year concerned, whereas Table 1(b) shows state aid granted in constant prices in the EFTA States i.e. in relative terms taking out the effect of inflation over the period. In other words, Table 1(a) shows the aid amounts of aid as they were reported by EFTA States to the Authority in each year, and Table 1(b) shows the aid volumes after having been corrected to take into account general price changes. This enables a comparison of the aid amounts granted by the individual EFTA States in each year in real terms.

<sup>8</sup> The annual average exchange rates are published by Eurostat.

<sup>9</sup> The figures in table 1(b) are converted into constant prices and Euro based on the GDP and the annual average exchange rate published by Eurostat. In principle, this is similar to the approach of the European Commission. While the European Commission statistics use GDP deflators published by Eurostat, equivalent GDP deflators are not published for all EFTA States. However, the Authority has calculated an equivalent deflator on the basis of the GDP figures issued by Eurostat.

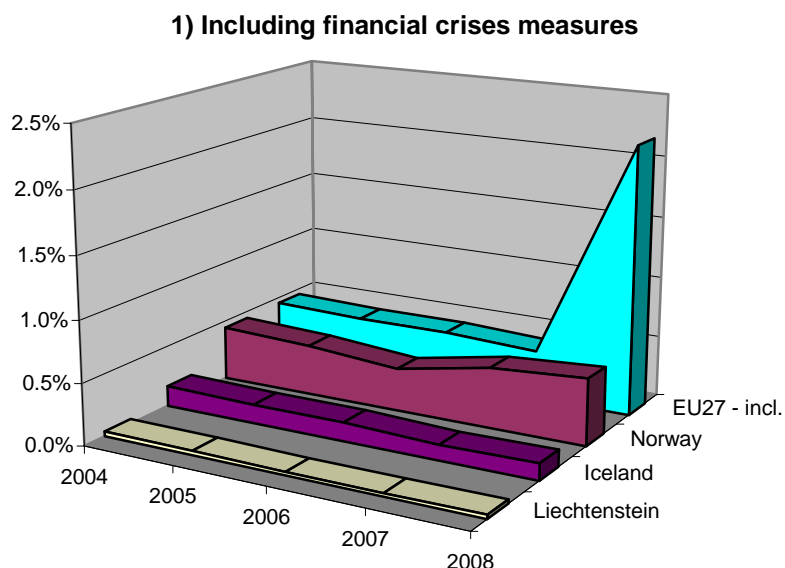


Both tables show that since Norway accounts for around 99% of total state aid granted in the three EFTA States, Norway dominates the overall figures. Table 1(b) also shows that while Norway decreased the amount of aid granted in real terms between 2004 and 2006, it increased significantly between 2006 and 2008 (by approximately 63 %). This was largely due to increased aid awarded under tax relief schemes to the maritime sector, and as compensation to industry for reductions in nitrogen oxide emissions

Despite an increase between 2004 and 2005, the amount of state aid granted in Iceland subsequently steadily decreased. This analysis is, however, based on measuring the amount of state aid granted in Euro. If measured in the national currency, the amount of state aid granted in Iceland increased in 2008. This difference is due to the currency fluctuations which took place in 2008.

Liechtenstein steadily decreased the amount of state aid granted between 2004 and 2006. At this point the trend was, however, reversed and levels of state aid were increased (by approximately 28%) between 2006 and 2008. Having said that, the amount of aid granted in Liechtenstein in 2008 still remains below the level in 2004. Overall, therefore, the amount of state aid granted in Liechtenstein has decreased during the period reviewed.

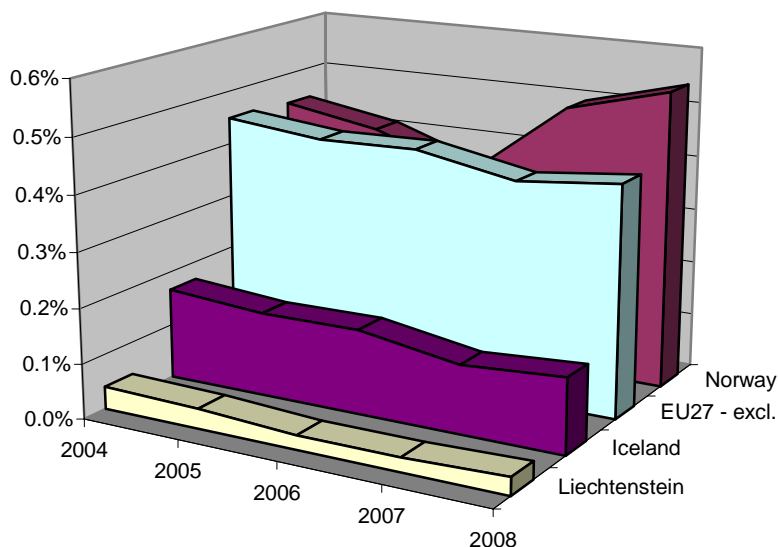
**Graph A: Total state aid (not including the transport sector) as a proportion of GDP from the beginning of 2004 to the end of 2008: EFTA States and EU-27 average<sup>10</sup>**



<sup>10</sup> GDP (in current prices and converted into Euro at annual average exchange rates) for the EFTA States in 2008 was in November 2008: Norway 309875.36 million Euro; Iceland 10265.33 million Euro and Liechtenstein 3479.99 million Euro. Source: Eurostat.



## 2) Excluding financial crises measures



Graphs A(1) and (2) and Table 2 show the total state aid awarded in the EFTA States and the average of the EU Member States as a proportion of GDP.

Due to the significant effect that the financial crisis has had on the total amount of aid granted by EU Member States two graphs have been prepared; one which *includes* financial crisis aid measures (Graph A(1)); and one which *excludes* such aid (Graph A(2)).

Graph A(1) shows that the amount of state aid granted by Norway in relation to GDP slightly exceeded the EU average until the financial crisis in 2008 - at which point the EU average far exceeded aid granted by Norway. Table 2 (column 1) below confirms that, if crisis aid is *included*, Norway granted aid well below the EU average in 2008<sup>11</sup>. By contrast, if financial crisis aid is *excluded*, Graph A(2) shows that Norway exceeded the EU average in 2008. This is also confirmed by Table 2 (column 2).

Graphs A(1-2) show that both Iceland and Liechtenstein have granted considerably less aid than the EU-average, irrespective of whether crisis aid is taken into account. Table 2 shows that Iceland is one of the EEA countries that has granted the least amount of state aid in relation to GDP, whereas Liechtenstein was *the* country that has granted the least aid of all EEA States.

<sup>11</sup> As referred to above, this comparison is, however, somewhat misleading as Norway did not grant aid related to the financial crisis until 2009.

**Table 2: State aid (not including transport) as a proportion of GDP in 2008:**  
EFTA States and EU Member States<sup>12</sup>

States	Aid in % of GDP (including crisis aid)	Aid in % of GDP (excluding crisis aid)
<b>Liechtenstein</b>	<b>0.03%</b>	<b>0.03%</b>
Estonia	0.09%	0.09%
Romania	0.18%	0.18%
<b>Iceland</b>	<b>0.13%</b>	<b>0.13%</b>
Italy	0.29%	0.29%
Greece	0.33%	0.33%
Austria	0.38%	0.38%
Slovakia	0.42%	0.42%
Finland	0.44%	0.44%
Cyprus	0.47%	0.47%
Slovenia	0.47%	0.47%
Lithuania	0.53%	0.53%
<b>Norway</b>	<b>0.54%</b>	<b>0.54%</b>
Bulgaria	0.78%	0.12%
Czech Republic	0.78%	0.78%
Poland	0.80%	0.80%
Sweden	0.94%	0.82%
Portugal	1.18%	0.92%
France	1.23%	0.39%
Spain	1.25%	0.40%
Malta	1.74%	1.74%
Hungary	1.81%	1.81%
Denmark	1.93%	0.71%
<b>EU27</b>	<b>2.19%</b>	<b>0.42%</b>
Germany	2.62%	0.57%
Netherlands	2.62%	0.25%
United Kingdom	3.96%	0.17%
Latvia	4.37%	0.20%
Belgium	5.52%	0.36%
Luxembourg	7.78%	0.15%
Ireland	19.53%	0.38%

## 1.2 Sectoral aid

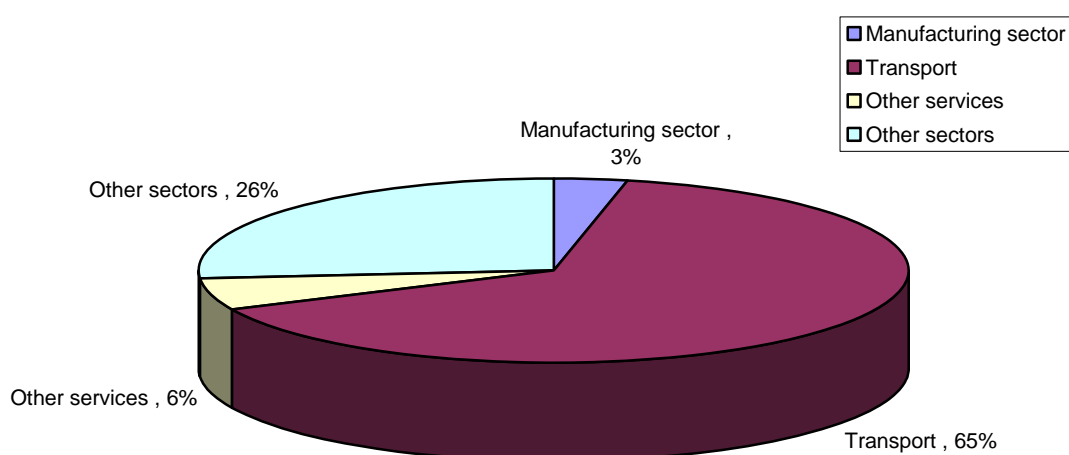
State aid may be earmarked for one or more specific industrial sectors. The sectors used in the scoreboard are: manufacturing, transport, other services and other sectors. If the grant does not also seek to fulfil a horizontal objective (such as research and development or small and medium-sized enterprises) it is referred to as “pure” sector-specific aid. Aid schemes targeted towards specific sectors, but which also pursue horizontal objectives will be considered as sector-

<sup>12</sup> Aid for agriculture and fisheries is not included in the data for the EU Member States and, as mentioned above, it is also not included for the EFTA States. In the European Commission’s scoreboard, Norway is reported to have granted a percentage of 0.56%. The reason why this scoreboard reports a percentage of 0.54% is because Norway’s figures were adjusted as a result of a correction to the amount of aid paid that was brought to the Authority’s attention after the European Commission had published its scoreboard.

specific (or “sectoral”) aid for the purpose of this sub-section<sup>13</sup>. The purpose is to provide an overview of the type of sectors which are favoured by the EFTA States.

Graph B shows aid earmarked for the manufacturing sector, transport sector, other services (other than transport) and finally other sectors in the three EFTA States for 2008<sup>14</sup>. It shows that aid for the manufacturing sector represented 3% of total sectoral aid, while aid for transport represented 65%. Aid for other services represented 6%; and the remaining group, other sectors, received 26% of overall sectoral aid in 2008.

**Graph B: Aid by sector<sup>15</sup> as a percentage of total sectoral aid in the EFTA States in 2008**



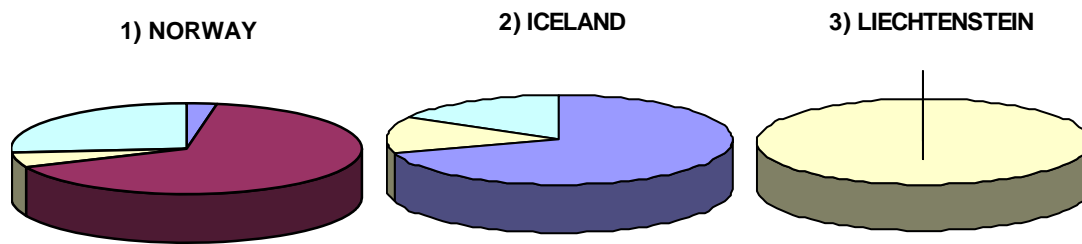
Graph B shows sectoral aid on an aggregate basis for 2008 for the three EFTA States. However, as referred above, the aggregate level of aid in the three EFTA States is dominated by the amount of aid granted by Norway. The smaller Graphs B(1-3) provide, therefore, an overview of the grant of sectoral aid on an individual EFTA State basis. Both Iceland and Liechtenstein reflect a very different picture than that of the EFTA States taken as a whole.

<sup>13</sup> This implies that aid for pure horizontal objectives (such as aid for small and medium-sized enterprises, environment, employment and training), for which a specific sector is not indicated, is excluded. For present purposes aid directed at general economic development (e.g. regional aid) is considered as aid for a horizontal objective.

<sup>14</sup> Aid for “other sectors” includes aid for forestry, hunting, electricity, gas and water supplies as well as mining and natural gas extraction.

<sup>15</sup> In total 814.37 million Euro was granted as sectoral aid in 2008 in the EFTA States. The aggregate amount for 2008 is divided as follows: Manufacturing sector: 25.84 million Euro; transport sector: 528.85 million Euro; other services: 45.2 million Euro; and other sectors: 214.48 million Euro.

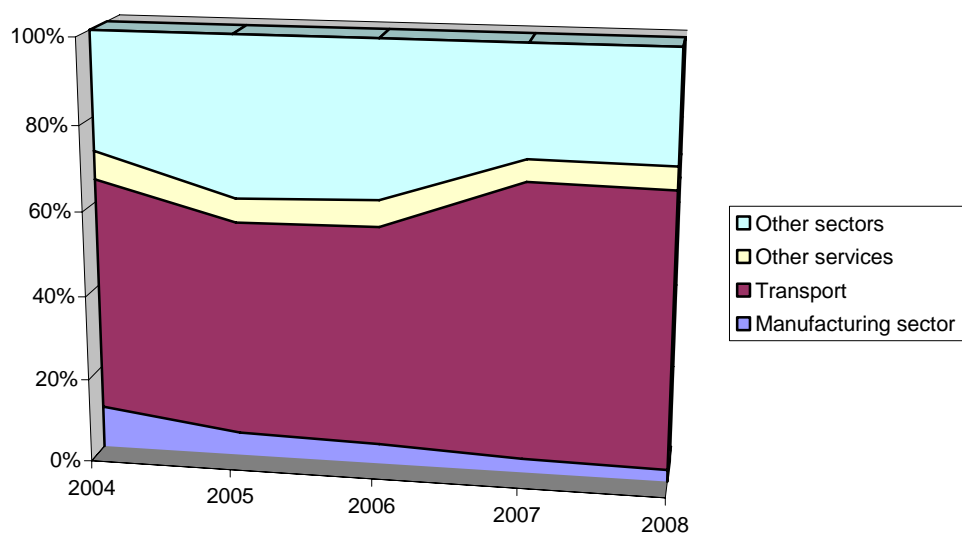
### Graphs B(1-3): Aid by sector as a percentage of total sectoral aid: Individual EFTA States in 2008



Graph B(1-3) reflects the same picture as in 2007 except in the case of Iceland. In Iceland almost all sectoral aid reported in 2008 was directed at the manufacturing sector, whereas in 2007 almost all sectoral aid in Iceland was provided for other services (other than transport)<sup>16</sup>. This change is due to the reporting of a previously granted unlawful rescue and restructuring aid package which the Authority found to be compatible aid in 2008<sup>17</sup>. In Liechtenstein all sectoral aid was directed at other services (other than transport).

Graph C provides an overview of the spread of sectoral aid in Norway between 2004 and 2008 inclusive. Graph C shows that whereas the level of transport aid increased considerably in Norway between 2006 and 2007, aid for transport has remained stable between 2007 and 2008. Norway is the only EFTA State which has reported the granting of transport aid (of which most is aimed at maritime transport)<sup>18</sup>.

### Graph C: Aid by sector as a percentage of total sectoral aid in Norway from the beginning of 2004 to the end of 2008



<sup>16</sup> See corresponding Graphs B(1-3) in the [Scoreboard of 2008](#) (reflecting aid granted until 2007).

<sup>17</sup> [Decision 329/08/COL on Sementsverksmiðjan hf.](#)

<sup>18</sup> Based on the annual reports submitted by EFTA States no aid has been provided to the railway or airline sector.

### 1.3 State aid for horizontal objectives

State aid granted for horizontal objectives, (such as aid for the purposes of encouraging research and development, safeguarding the environment, supporting small and medium-sized enterprises, employment and training) is, according to the Lisbon Agenda objectives, considered to target market failures or other beneficial objectives. Horizontal aid is considered therefore (generally speaking) to be less distortive of competition than sectoral aid or ad-hoc aid.<sup>19</sup>

However, as mentioned above, horizontal aid may nonetheless also be targeted at a specific sector in which case the extent to which it is considered to be less distortive of competition (than pure sector-specific aid) is more open to debate. For this reason, the scoreboard includes two tables: one in which aid measures in favour of a specific sector which also have horizontal purposes (e.g. research and development) are considered to be horizontal aid (Table 3), and one in which such aid is considered to be sectoral aid (Table 4). Both tables provide an overview of the allocation of aid for different purposes in the year 2008.

**Table 3: Pure sectoral aid compared with aid for horizontal objectives as a percentage of total aid (less transport aid) in 2008<sup>20</sup>**

Aid with PURE SECTORAL objectives	EFTA States	Norway	Iceland	Liechtenstein
Manufacturing sector	0%	0%	0%	0%
Other services	0.04%	0%	4.42%	0%
Other sectors	0.01%	0%	1.50%	0%
Total aid with sectorial objectives	0.05%	0%	5.93%	0%
<b>Aid with HORIZONTAL objectives</b>				
R&D	17.39%	17.23%	47%	0%
Environment and energy saving	26.38%	26.74%	0%	0%
SME	6%	5.29%	0%	0%
Employment	1.44%	1.42%	5%	0%
Regional development	45.97%	46.42%	21.02%	0%
Other horizontal objectives*	3.11%	2.91%	21.07%	100%
Total Aid with horizontal objectives	99.95%	100.00%	94.07%	100%
<b>Total aid less transport in million Euro</b>	1706.03	1682.87	14.02	1.11

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\* Other horizontal aid covers cultural and heritage objectives and natural disasters.

The approach in Table 3 (where aid which has two purposes, sectoral and horizontal, is counted as horizontal aid) is consistent with the way the European Commission publishes its scoreboard<sup>21</sup>.

Table 3 shows that all three EFTA States granted the vast majority of their aid for horizontal purposes in 2008. In Norway 100% of aid had a horizontal objective, of which almost 50% was for regional purposes<sup>22</sup>. In Iceland almost 95% of the aid

<sup>19</sup>As referred to in the introduction to this scoreboard, the Lisbon Agenda objectives of growth and competitiveness are cornerstones in the State Aid Action Plan.

<sup>20</sup>For purposes of the data on horizontal aid; aid in Tables 3 and 4 have been classified according to its primary objective in order to avoid double counting.

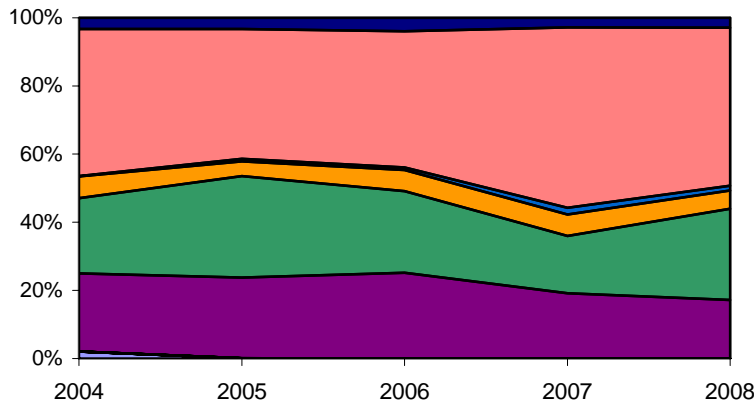
<sup>21</sup>By contrast, in Table 4 the figure for "horizontal aid" covers only pure horizontal aid schemes while aid granted under sector-specific horizontal aid schemes has been included in the figure for "sectoral aid".

<sup>22</sup>Strictly speaking regional aid is a category of its own. However, regional aid implies also a general (non-sector specific) aspect (i.e. it is directed at the "general economic development") and it is therefore classified under horizontal objectives in Tables 3 and 4.

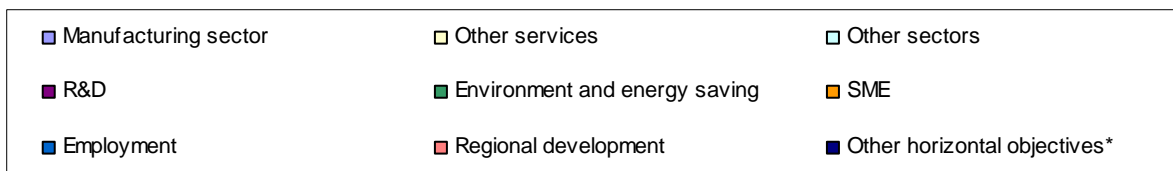
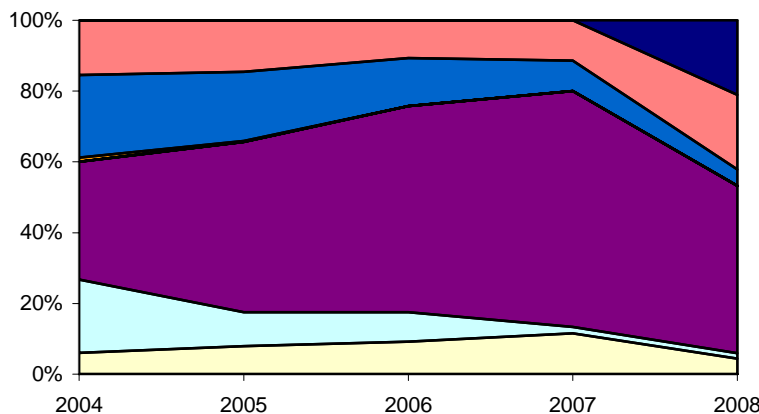
awarded was directed at horizontal objectives, of which almost half was for research and development purposes. Liechtenstein granted all of its aid for “other horizontal objectives”.

**Graphs D(1-2): Types of horizontal and pure sectoral aid as a percentage of total aid (not including transport) from the beginning of 2004 to the end of 2008**

**1) Norway**



**2) Iceland**



Graphs D(1-2) show the trends on the spread of horizontal and sectoral aid granted by Iceland and Norway as a percentage of total aid over the period reviewed. All grants of aid in Norway pursued horizontal objectives D(1) whereas in Iceland, the share of horizontal aid increased over the period reviewed D(2). Overall, the EFTA States have granted “better targeted” aid during the period reviewed mainly due to the increase in horizontal aid in Iceland<sup>23</sup>.

<sup>23</sup> Liechtenstein has remained stable since it has granted all its aid for horizontal objectives during the period reviewed.

Graph D(1) shows that Norway decreased regional aid as a percentage of all aid between 2007 and 2008, while it granted proportionally more aid for environmental protection in the same year. The spread of the forms of horizontal aid in 2008 largely reflect that of earlier years. Graph D(2) shows that Iceland has increased its share of horizontal aid in 2008 as a percentage of total aid. The graph also shows that despite it decreasing between 2007 and 2008, overall Iceland granted more research & development aid as a percentage of total aid.

Table 4 shows that if aid which is both targeted at a specific sector and has horizontal objectives is classified as “sectoral aid” the position is very different.

**Table 4: Sectoral aid compared to aid for pure horizontal objectives as a percentage of total aid (not including transport) in 2008**

<b>Aid with SECTORAL objectives</b>	EFTA States	Norway	Iceland	Liechtenstein
Manufacturing sector	1.51%	1.34%	23.91%	0.00%
Other services	2.65%	2.58%	4.44%	100%
Other sectors	12.57%	12.17%	5.82%	0%
Total aid with sectorial objectives	16.74%	16.62%	34.16%	100%
<b>Aid with PURE HORIZONTAL objectives</b>				
R&D	17.27%	17.11%	47%	0%
Environment and energy saving	13.16%	13.34%	0%	0%
SME	6%	5.27%	0%	0%
Employment	1.40%	1.39%	5%	0%
Regional development	45.45%	45.96%	13.87%	0%
Other horizontal objectives*	0.32%	0.32%	0.00%	0%
Total Aid with horizontal objectives	83.26%	83.40%	65.84%	0%
<b>Total aid less transport in milllion Euro</b>	1706.03	1682.87	14.02	1.11

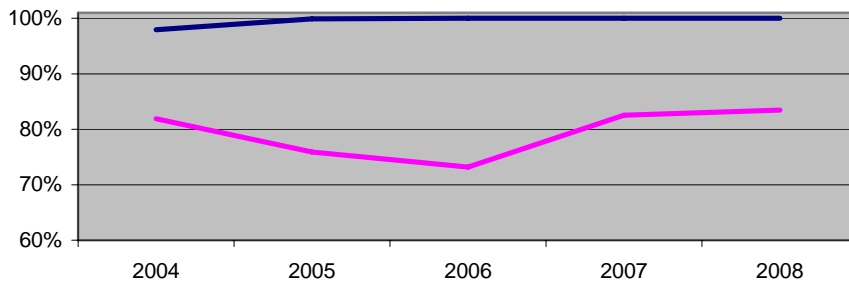
\* Other horizontal aid covers cultural and heritage objectives and natural disasters.

All in all, the EFTA States have granted less “better targeted” aid under this methodology. Table 4 shows that if aid which is both sector specific and has horizontal objectives is counted as “sectoral aid”, the percentage granted as sectoral aid increases by approximately 17% in the case of Norway. In Iceland the proportion of sectoral aid increases from constituting 6% of total aid to 34%. Liechtenstein granted only aid of this nature and in consequence the change in methodology means that Liechtenstein granted all its aid as sectoral aid as opposed to granting it all as horizontal aid.

The importance of the classification of the aid is clearly reflected in Graph E relating to Norway which shows the difference between the proportion of horizontal aid when: (i) it includes aid which is also targeted at specific sectors (blue); and (ii) when horizontal aid is exclusive of any sectoral characteristics (pink). The difference of approximately 20% of total aid over the whole period reviewed illustrated shows that the classification is important for the purposes of determining the extent to which EEA States grant horizontal aid.

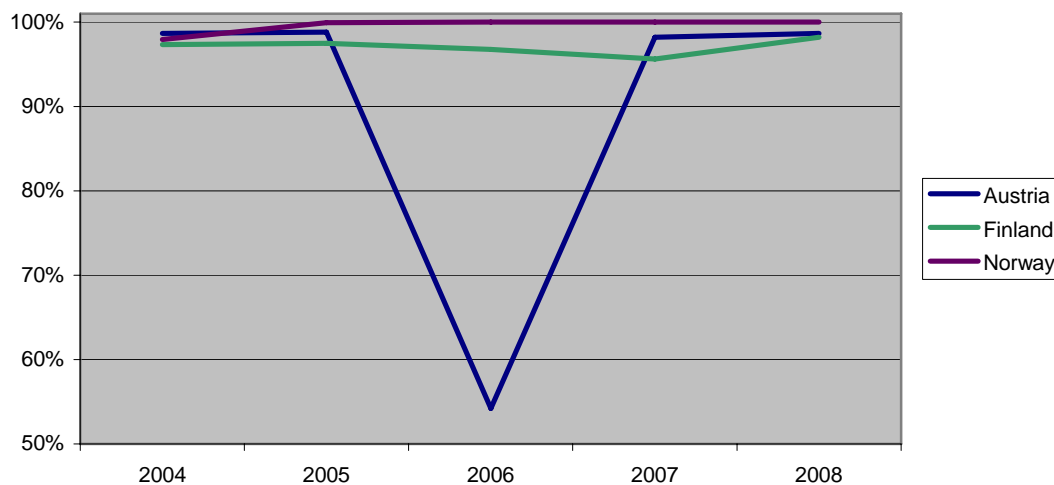


**Graph E: Importance of the classification of horizontal aid from the beginning of 2004 to the end of 2008 in Norway**



Finally, as in last year’s scoreboard, Norway has been compared to a group of EU Member States<sup>24</sup>. Graph F shows that the proportion of horizontal aid granted by Norway is fairly close to the level awarded by comparable EU states over the period reviewed. Horizontal aid includes aid which is also targeted at specific sectors in this illustration.

**Graph F: Overview of the grant of aid for horizontal objectives as a percentage of total aid (not including transport) from the beginning of 2004 to the end of 2008: Norway and selected EU Member States**

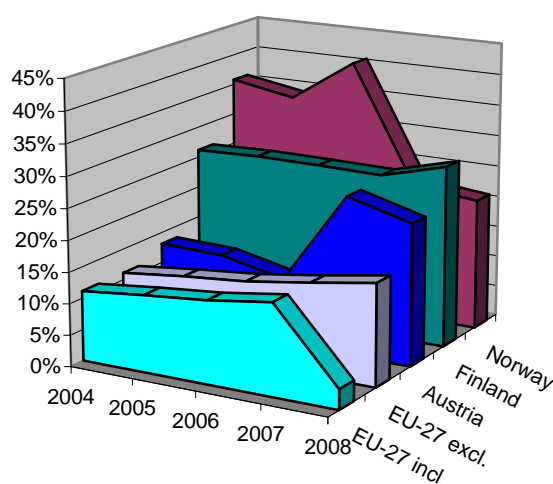


<sup>24</sup> In order to avoid distortions resulting from the fact that many of the EU Member States granted significant amounts of financial crisis aid in 2008 (while Norway did not), the selected EU Member States are amongst those which did not grant any crisis aid in 2008.

## 1.4 State aid for research and development and innovation (“R&D&I”)

Graphs G(1-2) provide an overview of aid granted by the EFTA States for R&D&I purposes as a percentage of total aid compared to a group of comparable EU Member States<sup>25</sup>. Again, in order to avoid distortions resulting from the fact that many EU Member States have granted significant amounts of financial crisis aid in 2008 (while Norway did not), the selected EU Member States are amongst those which did not grant any financial crisis aid in 2008. The EU average has been calculated both with, and without, crisis aid.

**Graph G(1): Overview of aid for R&D&I as a percentage of total aid (not including transport) from the beginning of 2004 to the end of 2008: Norway and selected EU Member States**



Graph G(1) shows that while Norway's share of aid granted to R&D&I decreased between 2006 and 2007, it levelled out and remained stable up to 2008 with Euro 348.18 million granted in 2008. Overall, the proportion of aid granted to R&D&I in Norway has been high in comparison to other states during the period reviewed, and notwithstanding the decrease in the proportion of aid granted it remained considerably higher than the EU-27 average – regardless of whether financial crisis aid is taken into account. As a proportion of GDP, however, Norway granted 0.11% of its GDP in aid for R&D&I purposes in 2008, while the EU27 average (not including financial crisis measures) is 0.69% of GDP.

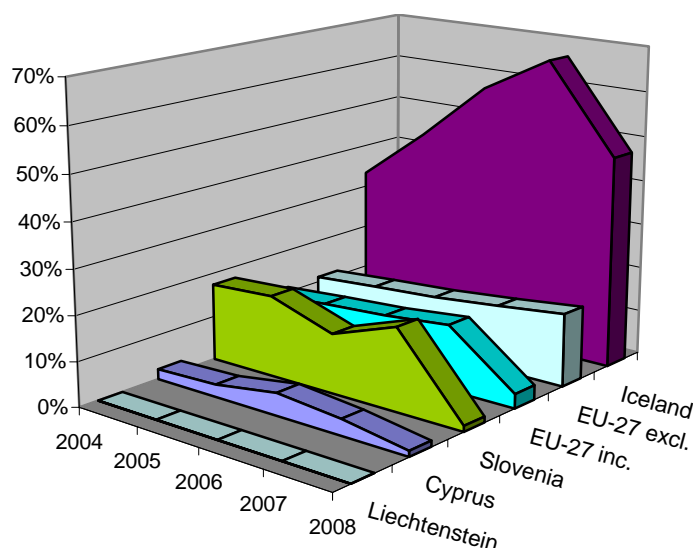
As regards the other two EFTA States, Graph G(2) shows that despite the share of aid awarded for R&D&I in Iceland decreasing significantly between 2007 and 2008, Iceland still grants a considerably higher proportion of its aid to R&D&I compared to the group of selected EU Member States. Iceland is also well above the EU-27 average – regardless of whether financial crisis aid is included. In financial terms, however, Iceland granted Euro 6.63 million of R&D&I aid in 2008, or 0.06% of GDP, well below the EU-27 average.

<sup>25</sup>The amount of aid for R&D&I reflects all aid directed at R&D&I irrespective of whether R&D&I is the primary or secondary objective of an aid measure. This means that the amount of aid to R&D&I in Graphs G(1-2) is not the same as the amount of aid for R&D&I included in Tables 3 and 4 on pages 13 and 15 above.

Liechtenstein has not granted any aid for R&D&I purposes.

Finally, it should be noted that while Graphs G(1-2) may give the impression that the proportion of state aid directed towards R&D&I is relatively small in the countries subject to review, this does not necessarily mean that levels of public funding for R&D&I in these countries is low. Public funding for R&D&I does not always involve state aid within the meaning of the EEA Agreement or the Treaty on the Functioning of the European Union (TFEU). As is apparent from data included in the scoreboard published by the European Commission, the level of public funding for R&D&I which is not state aid, is generally much higher than public assistance which is<sup>26</sup>.

**Graph G(2): Overview of aid for R&D&I as a percentage of total aid (not including transport) from the beginning of 2004 to the end of 2008: Iceland and Liechtenstein and selected EU Member States**



### 1.5 State aid for the protection of the environment and energy saving purposes

Over the five year period between 2004 and 2008, Norway was the only EFTA State which granted aid for the protection of the environment and energy saving purposes<sup>27</sup>.

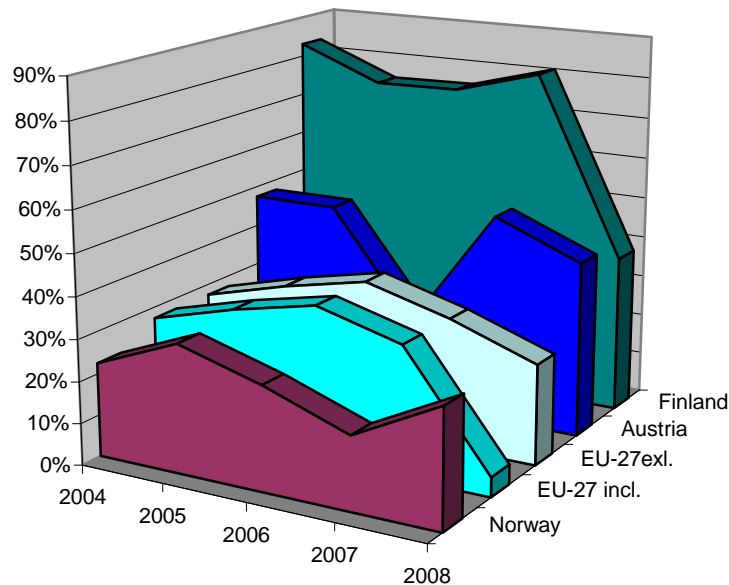
As above, in order to avoid distortions following from EU Member States granting financial crisis aid, the selected EU Member States used as comparators include only those which did not grant such aid in 2008. The EU average is included both with, and without, financial crisis aid.

<sup>26</sup>See the figure published in the scoreboard in the [report accompanying the scoreboard at section 2.2.4 on aid for research and development](#) published by the European Commission, Autumn 2009.

<sup>27</sup>The amount of aid for environmental purposes reflects all aid directed at the environment irrespective of whether protecting the environment is the primary or secondary objective of an aid measure. This means that the amount of aid to the environment in Graphs H (1-2) is not the same as the amount of aid for the environment included in Tables 3 and 4 on pages 13 and 15 above.

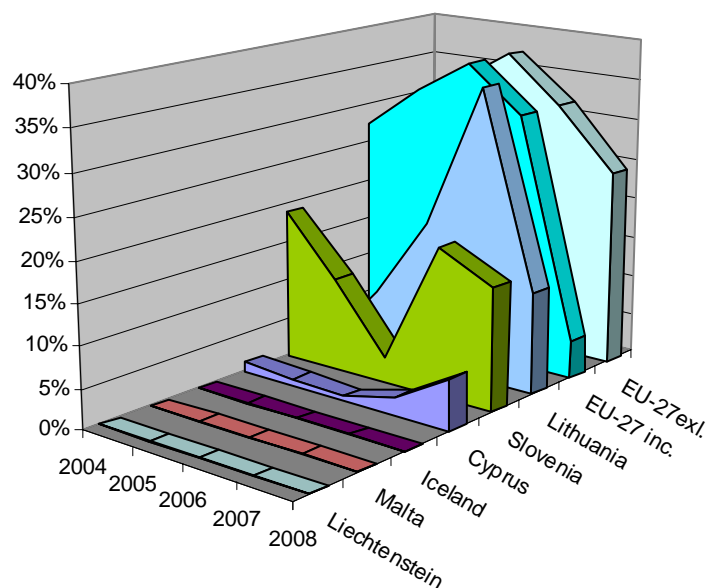
Graph H(1) reveals that Norway granted a slightly higher proportion of total aid for environmental protection purposes than the EU-27 average (when financial crisis measures are excluded). Also again in financial terms, Norway granted a higher percentage of its GDP in aid for environmental purposes than the EU-27 average – 0.15% of GDP (Euro 476.11 million) as opposed to 0.10% of GDP.

**Graph H(1): Overview of aid for environmental protection and energy saving purposes as a percentage of total aid (not including transport) from the beginning of 2004 to the end of 2008: Norway and selected EU Member States**



Graph H(2) shows that Iceland and Liechtenstein did not grant any aid for purposes of the environment meaning that their approach differs from most in the group of comparable EU Member States.

**Graph H(2): Overview of aid for environmental protection and energy saving purposes as a percentage of total aid (not including transport) from the beginning of 2004 to the end of 2008: Iceland and Liechtenstein and selected EU Member States**



## 1.6 State aid supporting regional development and cohesion

Regional development aid is a prominent feature in Norwegian state aid policy. Table 3 on page 13 above shows that in 2008 approximately 46% of the total aid awarded by Norway was regional aid. This is considerably higher than the EU-27 average (which is 26% of total aid, excluding financial crisis aid). Graph D(1) on page 14 above shows, however, that the share of Norwegian regional aid decreased slightly between 2007 and 2008 as a result of an increased emphasis on aid for environmental protection.

Iceland granted much less regional aid in proportional terms than Norway in 2008 (only around 20% of total aid, which is below the EU average (excluding financial crisis aid)<sup>28</sup>. However, Graph D(2) on page 14 above shows that Iceland slightly increased the share of aid granted for regional purposes between 2007 and 2008.

Liechtenstein did not grant any regional aid from 2004 to the end of 2008.

It should be recalled that Table 3 classifies aid which is directed at both horizontal and sectoral objectives as horizontal aid. If such aid is classified as sectoral aid, as is the case in Table 4 on page 15 above, this changes the position for Iceland in 2008 as some of the regional aid granted also had a sectoral focus. Using this methodology reduces the proportion of regional (horizontal) aid granted by Iceland from 21% to 14%.

## 1.7 Aid awarded under the block exemption regulations

With a view to reducing the administrative burden of securing approval for the granting of certain types of aid, block exemptions<sup>29</sup> on aid to small and medium-sized enterprises, training aid, employment aid and regional aid have been

<sup>28</sup>However, if financial crisis aid is included the proportion of regional aid granted by Norway is higher than the EU average.

<sup>29</sup>Block exempted aid does not require the prior approval of the Authority or Commission as it is deemed to be automatically exempted from the general prohibition of state aid, subject to certain conditions being fulfilled.

introduced in recent years<sup>30</sup>. As referred to in more detail in Part 2 of this scoreboard (on legislative and policy developments), the five existing block exemptions were consolidated and harmonised into one General Block Exemption Regulation in 2008<sup>31</sup>. The General Block Exemption Regulation, which entered into force on 8 November 2008, also increases the number of categories eligible for exemption (for example to research & development & innovation; environmental protection and the creation of enterprises by female entrepreneurs). However, since no use has been made of the General Block Exemption Regulation by the EFTA States in 2008, the graph below illustrates the categories of aid under the old block exemptions<sup>32</sup>.

Norway is the only EFTA State that has made use of the possibility to grant aid under block exemptions. Graph I shows that the number of aid measures applied under block exemptions has increased significantly over the period reviewed, particularly from 2005 onwards. Moreover, the table shows that Norway made most use of the block exemptions on aid for SMEs and training aid.

**Graph I: Number of block exemptions used from 2004 to 2008 (inclusive) in Norway**

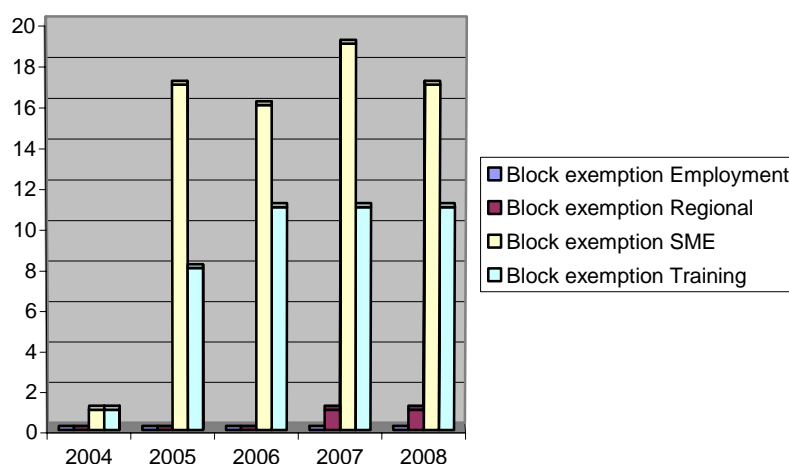


Table 5 shows that, in total, Norway used block exemptions more than the EU-27 average and considerably more than Finland and Sweden. Total aid granted in Norway under the block exemption regulations amounted to Euro 80.42 million in 2008. The total state aid (not including transport) granted in Norway in 2008 was Euro 1682.87 million, meaning that 4.7% of total aid granted in Norway was done

<sup>30</sup> Commission Regulations (EC) [No. 70/2001 of 12 January 2001 on State aid to small and medium-sized enterprises](#) (OJ L 10, 13.01.2001, p. 33); [No. 68/2001 of 12 January 2001 on training aid](#) (OJ L 10, 13.01.2001, p. 20); [No. 2204/2002 of 5 December 2002 on State aid for employment](#) (OJ L 337, 13.12.2002, p. 3); [No. 1628/2006 of 24 October 2006 on state aid for national regional investment aid](#) (OJ L 302, 01.11.2006, p. 29). The Regulations have been incorporated into Annex 15 (in Sections 1(d), (f) (g) and (i)) to the EEA Agreement by means of Joint Committee Decision No. 88/2002 ([OJ L 266, 03.10.2002, p. 56](#) and EEA Supplement No. 49, 3.10.2002, p. 42), Joint Committee Decision No. 83/2003 ([OJ L 257, 09.10.2003, p. 39](#) and EEA Supplement No. 51, 9.10.2003, p. 25) and Joint Committee Decision No. 157/2006 ([OJ No L 89, 29.3.2007, p. 33](#) and EEA Supplement No 15, 29.3.2007, p. 26).

<sup>31</sup> The [Regulation](#) was incorporated into the EEA Agreement by Joint Committee Decision No. 120/2008, [OJ No L 339, 18.12.2008](#), p. 111 and EEA Supplement No 79, 18.12.2008, p.20.

<sup>32</sup> Although one scheme has been reported under the General Block Exemption, no aid was granted in 2008 under this scheme.

under the block exemption regulation. The corresponding EU-27 average was, however, 19% of total aid<sup>33</sup> or Euro 37.2 million per Member State.

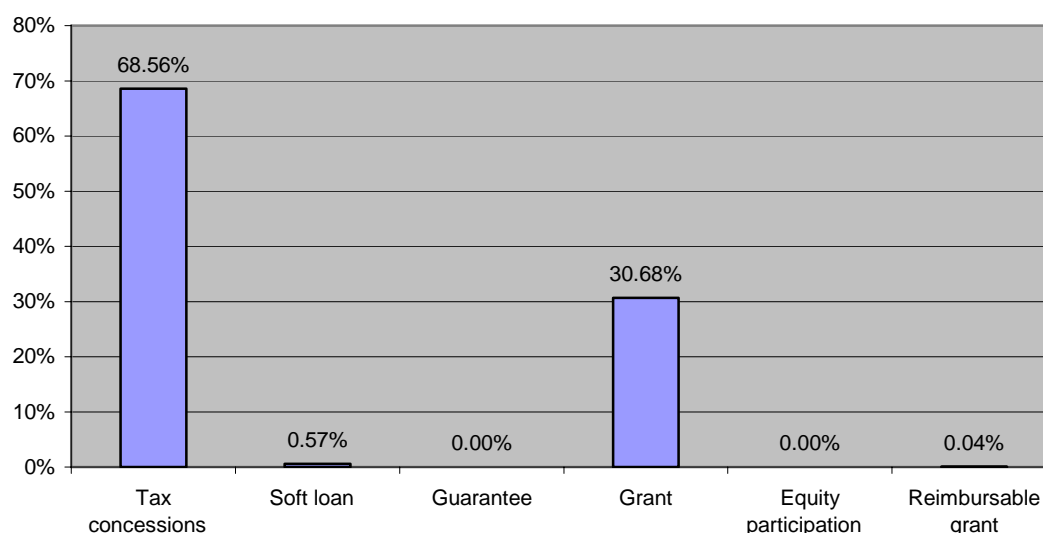
**Table 5: Use of block exemptions in 2008: Norway and selected EU Member States**

	Block exemption Employment	Block exemption Training	Block exemption Regional	Block exemption SME	Block exemption Total
Austria	1	2	0	10	24
<b>Norway</b>	<b>0</b>	<b>11</b>	<b>1</b>	<b>17</b>	<b>29</b>
EU 27 average	1	4	4	8	24
Belgium	0	27	3	2	34
Finland	0	0	0	2	2
Sweden	0	1	1	1	3

## 1.8 State aid instruments

Graph J below shows the extent to which the EFTA States made use of different state aid instruments in 2008. It shows that the EFTA States awarded more than two thirds of total aid in the form of derogations from obligations to pay tax or social security charges (68%) and around one third in the form of grants (just over 30%). On the whole, less than 1% of total aid awarded by the three EFTA States in 2008 was awarded by means of other aid instruments, such as guarantees, equity participation, reimbursable grants or soft loans.

**Graph J: Aid instruments as a percentage of total aid (excluding transport) in 2008 in the EFTA States**



<sup>33</sup> EU-27 figure less agriculture, fisheries, and transport and state aid measures taken to alleviate the financial crisis equals Euro 52.9 billion: European Commission [Scoreboard](#) for the fiscal year of 2008.



**Table 6: Aid instruments as a percentage of total aid (excluding transport) in 2004-2008 in the EFTA States**

	2004	2005	2006	2007	2008
Tax concessions	55.21%	57.66%	56.08%	67.10%	68.65%
Soft loan	1.38%	0.86%	0.75%	0.38%	0.69%
Guarantee	0.04%	0.04%	0.04%	0.02%	0.00%
Grant	43.27%	41.32%	42.95%	32.39%	30.74%
Equity participation	0.01%	0.00%	0.00%	0.01%	0.00%
Reimbursable grant	0.09%	0.11%	0.18%	0.11%	0.04%

## 2 Part two: Legislative and policy developments

### 2.1 Measures adopted in light of the State Aid Action Plan

In June 2005 the Commission launched the State Aid Action Plan<sup>34</sup>. In brief, the State Aid Action Plan outlined guiding principles for a comprehensive reform of the state aid rules to be undertaken through a variety of legislative measures to be adopted over a five-year period. Although the State aid Action plan is principally a strategy set for the European Union, the Authority and the EEA Joint Committee adopt measures for implementing the state aid rules which are similar to those applied in the European Community<sup>35</sup>. Measures derived from the State Aid Action Plan have therefore also been incorporated in relation to the EFTA States.

Measures adopted by the Authority inspired by the State Aid Action Plan include guidelines on aid for risk capital investments in small and medium-sized enterprises<sup>36</sup>; research, development and innovation<sup>37</sup>; regional development (for 2007-2013)<sup>38</sup>; environmental protection<sup>39</sup>; and railway undertakings<sup>40</sup>. More recently (in 2008 and 2009), the Authority has also adopted guidelines on aid for cinematographic and other audiovisual works<sup>41</sup>; ship management companies<sup>42</sup>; and training.<sup>43</sup> Also linked to the State Aid Action Plan, the Authority has adopted

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<sup>34</sup> [State aid Action plan.](#)

<sup>35</sup> The EEA Joint Committee shall ensure the effective implementation and operation of the EEA Agreement and is composed of representatives of the EEA States and the European Commission. The EEA Joint Committee is therefore responsible for the incorporation into the EEA legal framework of relevant EU legislation, such as block exemptions.

<sup>36</sup> Decision No. 313/06/COL of 25 October 2006 to adopt [Community guidelines on state aid to promote risk capital investments in small and medium-sized enterprises](#); OJ C 126 of 07.06.2007, p. 19; EEA Supplement No. 27 of 07.06.2007, p. 1.

<sup>37</sup> Decision No. 14/07/COL of 7 February 2007 to adopt a [framework for state aid for research, development and innovation](#); OJ L 305, 19.11.2009, EEA Supplement No. 60, 19.11.2009, p. 1.

<sup>38</sup> Decision No. 157/2006 of 8 December 2007 on [Commission Regulation \(EC\) No. 1628/2006 of 24 October 2006 on the application of Articles 87 and 88 of the Treaty to national regional investment aid](#); OJ L 89 of 29.3.2007, p. 33; EEA Supplement No. 15, 29.3.2007, p. 26.

<sup>39</sup> Decision No. 500/08/COL of 16 July 2008 to adopt [guidelines on state aid for environmental protection](#). The decision has not been yet been published in the Official Journal but is available on the Authority's website (see hyperlink in this footnote). The Commission guidelines are published in [OJ C 82 of 01.04.2008, page 1.](#)

<sup>40</sup> Decision No. 788/08/COL of 17 December 2008 to adopt guidelines [on state aid for railway undertakings](#). The decision has not been yet been published in the Official Journal but is available on the Authority's website (see hyperlink in this footnote). The Commission guidelines are published in [OJ C 184, 22.7.2008, p.13.](#)

<sup>41</sup> Decision No. 788/08/COL of 17 December 2008 on [cinematographic and other audiovisual works](#). The decision has not been yet been published in the Official Journal but is available on the Authority's website (see hyperlink in this footnote). The Commission guidelines are published in OJ C 43, 16.2.2002, p. 6.

<sup>42</sup> Decision No. 397/09/COL of 14 October 2009 [on state aid to ship management companies](#). The decision has not been yet been published in the Official Journal but is available on the Authority's website (see hyperlink in this footnote). The Commission guidelines are published in OJ C 132 of 11.6.2009, p. 6.

<sup>43</sup> This concerns guidelines on individual notification of training aid not covered by the General Block Exemption Regulation. Decision No. 471/09/COL of 25 November 2009 on [training aid subject to individual notification](#). The decision has not been yet been published in the Official Journal but is available on the Authority's website (see hyperlink in this footnote). The Commission guidelines are published in [OJ C 188 of 11.8.2009, p.1.](#)

new guidelines on aid granted in the form of guarantees as well as on reference and discount rates<sup>44</sup>.

No changes have, however, been made to the guidelines on state aid for shipbuilding and existing guidelines have therefore been prolonged until 31 December 2011<sup>45</sup>. Moreover, due to the financial crisis, it was not possible to constructively revise the guidelines on aid for rescuing and restructuring firms in difficulty and in consequence the existing guidelines have been extended for a further three years, until 30 November 2012<sup>46</sup>.

The reform envisaged by the State Aid Action Plan also covers procedure and new guidelines have been adopted both on recovery of unlawful and incompatible state aid<sup>47</sup>, as well as on the enforcement of state aid rules by national courts<sup>48</sup>. The standard forms for notifying aid have also been improved<sup>49</sup>.

Finally, the State Aid Action Plan has led to revisions of the block exemptions regulations. The Commission Regulation on *de minimis* aid<sup>50</sup> and the new General Block Exemption Regulation<sup>51</sup> were incorporated into the EEA agreement by the EEA Joint Committee. The General Block Exemption Regulation consolidates and harmonises into one text previous rules contained in five separate block exemption regulations<sup>52</sup>. It also increases the number of categories eligible for exemption. The new General Block Exemption Regulation authorises (amongst others) aid in favour of SMEs; research & development & innovation; regional development; employment & training; risk capital investments; and environmental protection as well as for the creation of enterprises by female entrepreneurs.

<sup>44</sup> Decision No. 788/08/COL of 17 December 2008 on [guarantees](#) and [discount rates](#). The decision has not been yet published in the Official Journal but is available on the Authority's website (see hyperlinks in this footnote). The Commission guidelines are published in (i) OJ C 155, 20.6.2008, p. 10 (and Corrigendum, OJ C 244, 25.09.2008, p. 32) on guarantees; and (ii) OJ C 14, 19.1.2008, p. 6 on discount rates.

<sup>45</sup> Decision No. 637/08/COL of 8 October 2008 [to prolong guidelines on state aid to shipbuilding](#), OJ L 148 of 11.06.2009, p.55; EEA Supplement No.30, p.21.

<sup>46</sup> Decision No. 433/09/COL of 30 October 2009 [to prolong guidelines on aid for rescue and restructuring firms in difficulty](#). The decision has not been yet published in the Official Journal but is available on the Authority's website (see hyperlink in this footnote). The Commission guidelines are published in OJ C 156 of 9.7.2009, p.3.

<sup>47</sup> Decision No. 788/08/COL of 17 December 2008 [on recovery of aid](#). The decision has not been yet published in the Official Journal but is available on the Authority's website (see hyperlink in this footnote). The Commission guidelines are published in OJ 2007 C 272, 15.11.2007, p. 4.

<sup>48</sup> Decision No. 254/09/COL of 10 June 2009 [on enforcement of state aid rules by the national courts](#). The decision has not been yet published in the Official Journal but is available on the Authority's website (see hyperlink in this footnote). The Commission guidelines are published in OJ C 85, 09.04.2009 p.1

<sup>49</sup> Decision No. 789/08/COL of 17 December 2008 on [the standard forms for notification of aid](#). The decision has not been yet published in the Official Journal but is available on the Authority's website (see hyperlink in this footnote).

<sup>50</sup> Decision No. 29/2007 of 27 April 2007 on [Commission Regulation \(EC\) No. 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid](#); OJ L 209 of 09.08.2007, p. 52; EEA Supplement No. 38 of 09.08.2007, p. 34.

<sup>51</sup> Commission Regulation (EC) No. 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty ([General block exemption regulation](#)); OJ L 214, 9.8.2008, p. 3.

<sup>52</sup> On (i) aid to SMEs; (ii) research and development aid in favour of SMEs; (iii) aid for employment; (iv) training aid; and (v) regional aid.

## 2.2 Forthcoming measures based on the State Aid Action Plan

### Broadcasting communication

On 2 July 2009, the Commission adopted a revised Communication on funding for public service broadcasters<sup>53</sup>. The new communication consolidates existing decision practice and adapts the current rules to take into account: (i) market developments which have occurred since 2001 (such as the availability of new delivery platforms, new media services, market players and convergence between different media markets); and (ii) legal changes (such as the adoption of the Services of General Economic Interest "package" in 2005). Important changes include an increased focus on accountability and effective control at the national level, including a transparent evaluation of the overall impact of publicly-funded new media services. The new Communication replaces the Broadcasting Communication issued in 2001. The Authority will adopt corresponding guidelines soon.

### Broadband Guidelines

On 17 September 2009, the Commission adopted guidelines on state aid for the rapid deployment of broadband network<sup>54</sup>. Many Member States have undertaken broadband projects which are partly funded by the state, leading to a number of Commission decisions, the underlying principles of which have been incorporated into the Guidelines. Due to the significant funds involved in the deployment of next generation networks (NGN), setting clear rules on state aid for such projects was also considered to be important. The Guidelines are, therefore, based on current decision practice but also provide some new guidance on the application of state aid rules in this field, most notably for NGN projects. The Authority will adopt similar guidelines in the near future.

### Training and employment requiring individual notification

On 3 June 2009, the Commission adopted Communications setting out the conditions for approving state aid for training<sup>55</sup>, and employment of disadvantaged and disabled workers<sup>56</sup>. While the recently adopted General Block Exemption regulation allows certain aid for training and employment of disabled or disadvantaged workers without prior notification, the granting of large aid amounts for such purposes creates a higher risk of unjustifiably distorting competition and must therefore be notified<sup>57</sup>. The Communications are based on an assessment of whether the positive effects of such measure outweigh the negative effects. The Authority has adopted similar guidelines on training<sup>58</sup> and will adopt similar guidelines on employment of disadvantaged and disabled workers before the end of 2009<sup>59</sup>.

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<sup>53</sup> The Commission guidelines are published in [OJ C 257 of 27.10.2009, p. 1.](#)

<sup>54</sup> The Commission guidelines are published in [OJ C 235, 30.9.2009, p. 7.](#)

<sup>55</sup> The Commission's communication is published in [OJ C 188 of 11.8.2009, p.1.](#)

<sup>56</sup> The Commission's communication is published in OJ C 188, 11.8.2009, p. 6–10.

<sup>57</sup> The General Block Exemption Regulation sets the notification threshold at 2 million Euro for training aid projects. For employment aid this threshold is set at 5 million Euro per undertaking per year for the employment of disadvantaged workers and at 10 million Euro per undertaking per year for the employment of disabled workers.

<sup>58</sup> See section 2.1 above.

<sup>59</sup> The guidelines will be available on the Authority's website shortly.

## Regional aid projects requiring individual notification

On 24 June 2009, the Commission adopted a Communication setting out the criteria for an in-depth assessment of regional aid to large investment projects<sup>60</sup>. The guidelines on aid for regional development (2007-13) provide that large investment projects above certain thresholds must be notified individually as they involve a greater risk of distorting competition. Individual notification is necessary when the proposed aid is higher than the maximum allowable in the relevant region for an investment with eligible expenditure of Euro 100 million. In such cases, an in-depth assessment will be necessary where the aid beneficiary has a market share of more than 25% or the production capacity created by the project exceeds 5% of the capacity of the market. The Communication contains guidance on how the in-depth assessment will be carried out based on a balancing test of “positive effects” (including job creation, training activities and advantages resulting from technology transfers) and “negative effects” (which are linked to market power i.e. the ability of a company to increase prices and create inefficient market structures by overcapacity). Similar provisions will be adopted by the Authority in early 2010.

## Simplified notification procedure and Best Practices Code

In terms of procedure the Commission has adopted a notice on a Simplified notification procedure for the treatment of certain types of state aid<sup>61</sup>; and a Best Practices Code<sup>62</sup>. Both have the purpose of improving the effectiveness of procedures thereby enhancing co-operation with national authorities.

The Best Practices Code explains how state aid procedures should be followed in practice, in particular as regards their duration, transparency and predictability and includes voluntary arrangements with the national authorities. Pre-notification contacts will be offered on a more regular basis and mutually agreed planning is intended for the conduct of novel, complex or urgent cases. National authorities are invited to answer swiftly to case-related requests and, to this end, the existing procedural rules will be more rigorously enforced. The Best Practices Code is also intended to improve the procedure for dealing with complaints and includes indicative deadlines and the provision of better information to complainants.

The simplified notification procedure should improve the processing of straightforward cases, such as those which follow horizontal guidelines or established decision practice. The intention is that aid which can easily be identified as being compatible should be approved within one month of the provision of a complete notification. A list of types of aid measures has been included (which include – subject to certain conditions - aid for SMEs, environmental protection, innovation and rescue and restructuring) setting out where and when the Commission will envisage using the simplified procedure. Interested parties are also to gain an opportunity to comment on the envisaged state aid measure<sup>63</sup>. Similar guidelines are to be adopted by the Authority which should be effective from 1 January 2010.

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<sup>60</sup> The Commission’s communication is published in O J C 223, 16.9.2009, p.3

<sup>61</sup> The Commission guidelines are published in [OJ C 136, 16.06.2009, p. 3.](#)

<sup>62</sup> The Commission guidelines are published in [OJ C 136, 16.06.2009, p. 13.](#)

<sup>63</sup> Neither of these initiatives is intended to apply to the measures in the context of the current financial and economic crisis, for which specific *ad hoc* internal procedures have been established in order to treat notified measures with extreme urgency.



## 2.3 Financial crisis

The financial crisis and the break-down of the inter-lending banking market required the Authority to adopt measures setting out guidelines on aid to the banking sector. The Authority has adopted four sets of guidelines (which correspond to those issued by the European Commission) on support to financial institutions within the EFTA States as well as for undertakings engaged in the real economy that have been affected by the crisis. In general the aim of the guidelines is to restore financial stability and ensure continued lending to the real economy. The support given must be well-targeted and proportionate to the objective of stabilising financial markets and include safeguards against unnecessary negative effects on competition. Where relevant the support must be accompanied by restructuring measures to ensure the future viability of the beneficiaries and burden sharing measures to ensure that the beneficiaries take a share of the losses incurred.

### 2.3.1 Measures to assist financial institutions

Four sets of guidelines have been adopted on support to financial institutions based on Article 61(3)(b) of the EEA Agreement as aid to remedy a serious disturbance in the economy. On 29 January 2009, the Authority adopted guidelines on the application of the state aid rules to measures taken in relation to the financial institutions (commonly referred to as “the “Banking Guidelines”<sup>64</sup>). Conditions for approval of such aid include that the measures may not discriminate against financial institutions in other countries and not allow beneficiaries to unfairly attract new business as a result of the government support. Measures should be conditional upon contributions from the private sector by way of adequate remuneration for the state, and the private sector must cover a significant part of the cost of support. Importantly, aid measures should be limited in time to ensure that while support can be provided to cope with the current turmoil in financial markets, it will be reviewed and terminated as soon as improved market conditions permit. The guidelines provide for expedited approval of schemes which are well-targeted and proportionate to the stabilisation of financial markets and which include safeguards against unnecessary negative effects on competition.

Also on 29 January 2009, the Authority adopted guidelines on recapitalisation of financial institutions in the financial crisis<sup>65</sup>. Recapitalisations of banks by national authorities are state aid when no private market investor would have undertaken them. This means that, given the condition of the markets and the extent of the problems of some banks, the vast majority (if not all) of such state interventions will involve aid. In view of the need to minimise distortion of competition, the guidelines distinguish between recapitalisation of fundamentally sound banks on the one hand, and distressed banks on the other. This distinction is based on the

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<sup>64</sup> [Decision 28/09/COL on the application of the state aid rules to measures taken in relation to the financial institutions in the context of the current financial crisis](#). The decision has not been yet been published in the Official Journal but is available on the Authority’s website (see hyperlink in this footnote). The Commission guidelines are published in OJ C 270, 25.10.2008, p.8.

<sup>65</sup> [Decision 28/09/COL on recapitalisation of financial institutions in the current financial crisis](#). The decision has not been yet been published in the Official Journal but is available on the Authority’s website (see hyperlink in this footnote). The Commission guidelines are published in OJ C 10, 15.1.2009, p. 2.

risk profile of the bank (i.e. its solvency, credit ratings, capital adequacy, and spread of credit default swaps as well as asset management strategies). Recapitalisations of fundamentally sound banks require that the state must receive adequate “market” remuneration (based on the capital instrument, interest rate and the risk profile of the bank), while the state remuneration from distressed banks must be higher and require the submission of a restructuring plan within six months of recapitalisation.

On 22 April 2009, the Authority adopted guidance on the treatment of impaired assets in the banking sector<sup>66</sup>. Impaired assets are assets on which banks are likely to incur losses. Where impaired assets are purchased or insured by the state at a value above the market price, or where the price of a state guarantee does not fully compensate the state for its liability, the measure relieves the beneficiary bank from having to register a loss on its impaired assets (or releases capital for other uses). Such asset relief measures, therefore, involve state aid. Approval of such aid requires banks to fully disclose impairments in advance. The guidelines set out methodologies on the valuation of the impaired assets and require evaluations to be validated. There must be adequate burden-sharing of the costs related to impaired asset between the shareholders, the creditors and the state; which implies that the state, in particular, must receive adequate remuneration. Conditions can include a requirement that the beneficiary covers losses incurred from the impaired assets. Finally, long-term viability must be ensured (by submission of a restructuring plan) and there must be remedies in place against unnecessary distortion of competition. Approval is granted for a period of six months and is conditional upon a commitment to submit asset valuations and a restructuring plan within 3 months from participation in the asset relief.

On 25 November 2009, the Authority adopted new guidelines under the framework of the Banking Guidelines which explain when a bank needs to submit a restructuring plan<sup>67</sup>. Essentially, restructuring plans must be submitted in case of a recapitalisation of a distressed bank or when a bank, in connection with the crisis, has received aid (except for participation in a guarantee scheme) exceeding 2% of the total bank's risk weighted assets. The new guidelines explain the approach and criteria relevant for the purposes of assessing restructuring plans. The guidelines apply until the end of 2010<sup>68</sup>.

### 2.3.2 Measures for the real economy

On 29 January 2009, the Authority adopted guidelines for assisting the real economy<sup>69</sup>. Due to the drying up of the lending market, even otherwise sound

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<sup>66</sup> [Decision 191/09/COL on the treatment of impaired assets in the banking sector](#). The decision has not been yet been published in the Official Journal but is available on the Authority's website (see hyperlink in this footnote). The Commission guidelines are published in OJ C 72, 26.03.2009, p. 1.

<sup>67</sup> [Decision 472/09/COL on the return to viability and the assessment of restructuring measures in the current crisis under the state aid rules](#). The decision has not been yet been published in the Official Journal but is available on the Authority's website (see hyperlink in this footnote). The Commission guidelines are published in [OJ C195, 19.8.2009, p. 9](#). In a large number of cases rescue aid was approved on the condition that a restructuring plan would be submitted within six months.

<sup>68</sup> After that date, the normal rules on rescue and restructuring should resume.

<sup>69</sup> [Decision 28/09/COL on aid measures to support access to finance in the current financial and economic crisis](#). The decision has not been yet been published in the Official Journal but is



companies have been unable to obtain financing. Again based on Article 61(3)(b) of the EEA Agreement, the framework introduces temporary flexibility in the amount of state aid allowable until 31 December 2010. The framework enables national authorities to provide grants of up to Euro 500,000 as compatible state aid for companies affected by the crisis. Compatible aid measures include also reduced premiums on state guarantees; loans with low interest rates (especially relating to “green products”); a raising of the safe-harbour threshold for risk capital investments (to meet the increased equity gap for SMEs); and, in the field of export credits, the takeover by a public export-credit insurer of non-marketable risks.

### 3 Part Three: Recovery

#### 3.1 The rules on recovery of unlawful and incompatible state aid

Article 14 of Part II of Protocol 3 to the Surveillance and Court Agreement provides that *“where negative decisions are taken in cases of unlawful aid, the Authority shall decide that the EFTA State concerned shall take all necessary measures to recover the aid from the beneficiary.”*<sup>70</sup>.

The Authority has included a new Chapter on recovery of unlawful and incompatible state aid in its State Aid Guidelines, which sets out detailed rules applicable to recovery cases. Recovery of illegal and incompatible state aid is usually a lengthy process in the EFTA States and generally the cases are not completed within the time-limits set out in the relevant legislation and the recovery decisions. This is so despite the fact that Article 14(3) of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice provides that *“recovery shall be effected without delay and in accordance with the procedures under the national law of the EFTA State concerned, provided that they allow the immediate and effective execution of the EFTA Surveillance Authority’s decision.”*<sup>71</sup>. The Court has confirmed that national procedures which do not meet the conditions of immediate and effective execution of the recovery decision shall be left unapplied<sup>72</sup>.

#### 3.2 State of play of pending recovery cases

In the period between 2004 and July 2009, the Authority adopted seven recovery decisions concerning the EFTA States, of which three are still pending (Table 6). The oldest unresolved recovery case dates back to February 2004 and concerns an Icelandic scheme in favour of International Trading Companies<sup>73</sup>. The other two recovery cases (pending in Norway) concern an energy savings fund “Enova” case<sup>74</sup> from 2006, and the “Wood scheme” from 2008<sup>75</sup>.

The Authority has closed four recovery cases concerning Norway. One of them because recovery proceedings against the beneficiary company (the Norwegian Aviation School<sup>76</sup>) had failed as it had insufficient assets to cover its debts. The oldest case involving Norway, dating back to 2004, involved exemptions from electricity taxes<sup>77</sup> and was closed in the first half of 2009. A third case, Entra<sup>78</sup>,

<sup>70</sup>Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

<sup>71</sup>Emphasis added. This rule corresponds to Article 14(3) of Council Regulation No. 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 (now Art. 88) of the EC Treaty, OJ L 83/1, 27.03.1999, p.1.

<sup>72</sup>Case C-232/05 *Commission v France* (“Scott”) [2006] ECR I-10071.

<sup>73</sup>Decision 21/04/COL of 25 February 2004. Upon submission of the case by the Authority to the EFTA Court the latter ruled on 25 November 2005 that the aid had to be recovered (Case E-2/05).

<sup>74</sup>Decision 125/06/COL of 3 May 2006.

<sup>75</sup> Decision 28/08/COL of 23 January 2008.

<sup>76</sup> Decision 290/09/Col of 1 July 2009.

<sup>77</sup>Decision 148/04/COL of 30 June 2004. The decision (which involved electricity tax exemptions in favour of the manufacturing and mining industries) was appealed against at the EFTA Court, which upheld the Authority’s decision in a judgment of 21 July 2005 (Joined cases E-5/05, 6/04, 7/04).

<sup>78</sup> Decision 318/05/COL of 14 December 2005.

was initiated in December 2005 and closed early in 2006. The fourth recovery case, concerning the VAT Compensation Act<sup>79</sup>, was initiated in May 2007 and closed in 2008.

There are no recovery cases pending against Liechtenstein.

The Authority continues its efforts to obtain information from the EFTA States on outstanding aid amounts to be recovered. Where EFTA States do not take all measures available to implement recovery decisions, the Authority will actively pursue non-compliance under the procedures provided for in the Surveillance and Court Agreement.

**Table 6: Pending recovery cases by EFTA State, until July 2009**

	Situation 31/12/03	2004		2005		2006		2007		2008	
		New cases	Cases closed	New cases	Cases closed	New cases	Cases closed	New cases	Cases closed	New cases	Cases closed
Iceland	0	1 <sup>a)</sup>	0	0	0	0	0	0	0	0	0
Liechtenstein	0	0	0	0	0	0	0	0	0	0	0
Norway	0	1 <sup>b)</sup>	0	1 <sup>c)</sup>	0	1 <sup>d)</sup>	1 <sup>c)</sup>	1 <sup>e)</sup>	0	1 <sup>f)</sup>	1 <sup>e)</sup>
<b>Total</b>	0	2	0	1	0	1	1	1	0	1	0

	Cases pending 31/12/08	The first six months of 2009		Cases pending 1/7/09
		New cases	Cases closed	
Iceland	1	0	0	1
Liechtenstein	0	0	0	0
Norway	3	1 <sup>g)</sup>	2 <sup>b,g)</sup>	2
<b>Total</b>	4	1	2	3

- a) International Trading Companies
- b) Electricity tax
- c) Entra
- d) Enova
- e) VAT compensation
- f) Woodscheme
- g) Norwegian Aviation College AS

<sup>79</sup>Decision 155/07/COL of 3 May 2007.

**Table 7: Overview of recovery cases indicating amounts to be recovered as well as effectively recovered until July 2009**

Decision Number	Working title of the case	EFTA State	Date of Decision	Amount to be recovered	Amount effectively recovered	Recovery case pending
290/09/COL	Norwegian Aviation School	Norway	1 July 2009	NOK 4.5 million and other unknown amounts	Bankrupt	No
28/08/COL	Wood scheme	Norway	23 January 2008	NOK 5.049.647 (plus interests until effective recovery)	-	Yes
155/07/COL	VAT Compensation	Norway	3 May 2007	NOK 43.199.304	NOK 43.199.304	No
125/06/COL	Enova	Norway	3 May 2006	NOK 19.303.572	NOK 7.121.950	Yes
318/05/COL	Entra	Norway	14 December 2005	NOK 99.088.462	NOK 99.088.462	No
148/04/COL	Electricity taxes	Norway	30 June 2004	NOK 132.158.641	NOK 132.158.641	No
21/04/COL	ITC	Iceland	25 February 2004	ISK 18.608.233 and other unknown amounts	ISK 0	Yes

## 4 Part Four: Information sources and methodology

### 4.1 State aid register – a second transparency tool

The Authority's state aid register is an online service which provides an overview of all state aid cases which have been the subject of a decision by the Authority since 1 January 1994:

<http://www.eftasurv.int/state-aid/state-aid-register/>

### 4.2 Annual report and state aid e-news

The Authority publishes an Annual Report on its activities which summarises the most important legal developments, decisions, and case-law during the relevant year. It is available on the website of the Authority:

<http://www.eftasurv.int/press--publications/annual-reports/>

State aid e-news, which begun to be published in 2006, is an online service available by e-mail and the website of the Authority. It is a weekly update providing an overview of state aid decisions adopted by the Authority (and their publication details), and of court judgments handed down by the EFTA Court:

<http://www.eftasurv.int/state-aid/state-aid-e-news/>

It is also available as part of the State Aid Weekly Newsletter published by the European Commission<sup>80</sup>.

### 4.3 Methodology

This scoreboard is published in accordance with Article 6 of Decision No. 195/04/COL of 14 July 2004, which provides that the Authority shall publish a scoreboard, containing a synthesis of the information in the annual reports submitted by the individual EFTA States in compliance with Article 21 of Part II of Protocol 3 to the Surveillance and Court Agreement.

Except for recovery cases, all data on the EFTA States has been obtained from the annual reports provided by the EFTA States, and from reports provided by the states under the block exemptions. Cases which are still being examined are not included.

State aid data collected for the scoreboard is grouped according to primary objectives which may be either horizontal (for example, research and development, or for small and medium-sized enterprises) or sector-specific (for example the maritime sector, or the manufacturing sector). Unless otherwise indicated, information has been included according to the objective of the aid as opposed to the identity of the aid recipients. For example, if the aid is earmarked for small and medium-sized enterprises it will be classified as having small and medium-sized enterprises as its primary objective irrespectively of the sectors

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<sup>80</sup> [http://ec.europa.eu/comm/competition/state\\_aid/newsletter/index.html](http://ec.europa.eu/comm/competition/state_aid/newsletter/index.html)

which beneficiaries belong to. Also, aid granted under, say, a regional development scheme may ultimately benefit small and medium-sized enterprises, but if the scheme is open to all sizes of enterprises it will be classified as regional aid.

As regards information concerning the 27 EU Member States, the data was obtained from the scoreboard issued by the European Commission published in December 2009<sup>81</sup>.

## Contact

Any queries or requests for data should be marked “Scoreboard” and be sent to the general state aid mailbox at [stateaid@eftasurv.int](mailto:stateaid@eftasurv.int) or contact:

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<sup>81</sup> [http://ec.europa.eu/competition/state\\_aid/studies\\_reports/2009\\_autumn\\_en.pdf](http://ec.europa.eu/competition/state_aid/studies_reports/2009_autumn_en.pdf)