

State Aid Scoreboard for 2009  
for the European Economic Area EFTA States

The logo of the EFTA Surveillance Authority, featuring the text 'EFTA SURVEILLANCE AUTHORITY' in white on a dark blue background. The text is arranged in two lines, with 'EFTA SURVEILLANCE' on top and 'AUTHORITY' below it, enclosed in a white L-shaped frame.

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## Introduction

This is the fifth 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 six-year period between 2004 and 2009. 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 are based on a reporting system introduced in 2004.

The scoreboard is a benchmarking tool for measuring the volume and type of aid granted within the EFTA States over the period from 2004 to 2009. Inspired by the policy objectives established by the European Commission in its State Aid Action Plan,<sup>1</sup> the Scoreboard measures the extent to which overall state aid is reduced<sup>2</sup> while also measuring aid granted to support certain horizontal objectives such as research and development, innovation and risk capital, which is viewed more positively. 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 industry and creating sustainable jobs.<sup>3</sup>

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 European 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>4</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> 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.

<sup>2</sup> The financial crisis has meant that in overall terms the amount of aid granted has increased substantially across the EEA. However, as referred to below while this Scoreboard does assess total aid granted the focus is on the underlying trend excluding aid granted as a result of the financial crisis.

<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 is intended 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 initiatives are to be achieved 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>4</sup> As a result of this co-operation, the European 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 that of the Treaty on the Functioning of the European Union (TFEU). The purpose of the EEA Agreement is to extend the internal market of the European 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 European 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 scoreboard produced by the European Commission, the financial crisis has influenced the content of the scoreboard. Aid to deal with the financial crisis covers aid granted to the financial sector.<sup>5</sup> If the volume of state aid would be presented including aid related to the financial crisis, the high volumes granted would distort the overall picture on the type of aid granted. In order to be able to demonstrate how the grant of state aid has developed over the period reviewed, most tables and graphs in this scoreboard therefore exclude financial crisis aid. However, the Authority has included a short summary of the influence of the crisis on the analysis of state aid 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*<sup>6</sup> 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. 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 where that is not the case it is, in principle, covered by the scoreboard. For the years 2004 to 2009 only two cases reported by the EFTA States involve state aid granted for public service obligations.<sup>7</sup>

The scoreboard covers existing aid, that is, aid authorised by the Authority or aid based on measures introduced prior to the entry into force of the EEA Agreement. It does not cover pending cases. Nor does it cover funding granted in line with the rules for *de minimis* support as such funding does not constitute state aid within the meaning of Article 61(1) of the EEA Agreement. The scoreboard covers both aid granted under schemes and *ad hoc* aid. Finally, the scoreboard does not cover non-notified aid. This is particularly relevant for financial crisis aid granted in Iceland which was (formally) notified to the Authority only in 2010 – two years after the outbreak of the financial crisis.

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<sup>5</sup> The European Commission refers to aid to the financial sector and aid to the real economy connected to the financial crisis collectively as “crisis measures”. However in the case of the EFTA States aid has only been granted specifically to the financial sector to date (the Authority has approved a scheme permitting aid to the real economy in Norway but no aid has yet been granted under it).

<sup>6</sup> Case C-280/00 *Altmark Trans and Regierungspräsidium Magdeburg* [2003] ECR I-7747 was a reference for a preliminary ruling under Article 267 TFEU (previously 34 EC) by a German national court (Bundesverwaltungsgericht) in the proceedings pending before that court. The case concerned the grant of licences for scheduled bus transport services in the Landkreis of Stendal (Germany) and public support for operating those services.

<sup>7</sup> Decisions 193/09/COL of 22.4.2009 and 205/09/COL of 8.5.2009.

The scoreboard gives an overview of the state aid reported by the EFTA States from the beginning of 2004 to the end of 2009.<sup>8</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 that regard. Finally, **Part Four** sets out the information sources and methodology used in compiling the scoreboard.

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>8</sup> In addition, Part Two (on legislative developments) and Part Three (on recovery cases) both cover all or part of 2009.

## The financial crisis

The financial crisis has had an exceptional impact on the economies of the EFTA States, in particular in Iceland. In the case of Iceland, financial crisis aid favouring the three main Icelandic banks Islandsbanki, Arion and NBI<sup>9</sup> granted in 2008 and 2009 but only notified by Iceland in 2010, have not yet been approved by the Authority.<sup>10</sup> This means that a substantial amount of aid granted in Iceland is not reflected in this scoreboard. However, Iceland granted other crisis aid in 2009 (as well as in 2008) based on a mortgage scheme introduced in 2008<sup>11</sup> and both schemes are included in the scoreboard. Norway granted crisis aid to fundamentally sound banks in 2009.<sup>12</sup> Liechtenstein has not, to date, notified any aid measures linked to the financial crisis. While the impact of the financial crisis aid is therefore reflected in the present scoreboard, future scoreboards will strongly reflect the crisis after the pending Icelandic cases have been closed – in particular (retrospectively) for the years of 2008 and 2009.

The granting of state aid related to the financial crisis continued to influence the scoreboard for 2009 recently issued by the European Commission - albeit to a lesser extent than at the on-set of the financial crisis in 2008. Due to the significant effect on the statistics underlying the scoreboard, data has, in line with the approach taken by the European Commission, been presented both including financial crisis aid and excluding such data.

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 is the relevant currency for the purposes of the scoreboard. The exchange rate of the currencies of the EFTA States, particularly that of the Icelandic Krone, have experienced significant fluctuations since the start of the financial crisis in the last quarter of 2008. This was reflected to some extent in the previous scoreboard as the exchange rate used to convert national currencies into Euro is the average rate for the year.<sup>13</sup> While the Norwegian Krone regained its previous value during 2009 (and the Swiss Franc used in Liechtenstein has been little affected), the real impact of the depreciation of the Icelandic Krona is clear from the average exchange rate in 2009. This had the statistical effect of limiting the increase in the amount of aid paid in Iceland in Euro in 2009 (which was approximately 12%) in comparison with the increase in Icelandic Kroner (which was approximately 27%).

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<sup>9</sup> The successor banks to the failed Glitnir Bank, Kaupthing Bank and Landsbankinn, respectively.

<sup>10</sup> The Authority opened the investigation procedure on 15.12.2010 into state aid granted in October 2008 and September 2009 to the three main Icelandic banks; Islandsbanki, Arion and NBI (Landsbankinn) – the successors of Glitnir, Kaupthing and Landsbanki, respectively.

<sup>11</sup> Decision 168/09/COL of 27.3.2009. The current scoreboard includes crisis aid granted in Iceland in 2008 which was not shown in the previous scoreboard for 2008.

<sup>12</sup> Decision 205/09/COL of 8.5.2009.

<sup>13</sup> Average exchange rates are published by Eurostat. Scoreboards covering the years prior to 2008 used the exchange rate on 1 January in a given year.

## 1. Part One: overall state aid granted in 2004 – 2009

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 2009 was, as mentioned, greatly influenced by the financial crisis. In this regard, both Iceland and Norway granted financial crisis aid to banks in 2009. Moreover, the current scoreboard reflects the financial crisis aid granted by Iceland in 2008 which was not included in the previous scoreboard.<sup>14</sup>

This chapter provides an overview of state aid granted in the EFTA States from 2004 to 2009 (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 granted more aid during the period reviewed – in particular during the last four years. Both Iceland and Liechtenstein showed some signs of granting less aid between 2004 and 2007, but since then the trend has been increasing to the level originally granted in 2004.

In all EFTA States there was a trend between 2005 and 2008 of granting a higher proportion of “better targeted” aid. However, it is uncertain whether this trend will continue since in 2009 there was a slight increase in aid favouring specific sectors.<sup>15</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 granted more aid than the EU-27 average as a proportion of GDP in 2009. However, if financial crisis aid is *included* in the level of aid granted, Norway granted less than a third of the EU-27 average as a proportion of GDP. 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 is deemed by EFTA States not to constitute state aid due to the lack of liberalisation of the sector. 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). Transport aid essentially covers aid for services. Transport aid is therefore referred to as transport services in section 1.2 on sectoral aid.

All data in the scoreboard is set out in million Euro.<sup>16</sup>

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<sup>14</sup> Decision 168/09/COL addresses crisis aid granted by Iceland in 2008. The aid was notified by Iceland only in 2008 and the Authority approved the aid on 27.3.2009.

<sup>15</sup> See Graph D below which shows that Norway and Iceland granted less horizontal aid and more sectoral aid in 2009 while Liechtenstein granted all aid to horizontal objectives.

<sup>16</sup> With the exception of 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 2009 inclusive: Total state aid in current prices (in million Euro, using annual average exchange rates)<sup>17</sup>**

EFTA States	2004	2005	2006	2007	2008	2009
Iceland	17.40	18.75	24.10	17.24	23.04	25.28
Liechtenstein	1.13	1.08	0.84	0.86	1.11	1.19
Norway	1,121.93	1,213.80	1,232.84	1,900.11	2,202.22	2,842.51
<b>Total state aid EFTA States</b>	<b>1,140.46</b>	<b>1,233.63</b>	<b>1,257.79</b>	<b>1,918.22</b>	<b>2,226.37</b>	<b>2,868.98</b>
<b>Transport</b>	<b>223.83</b>	<b>262.20</b>	<b>308.91</b>	<b>550.22</b>	<b>535.48</b>	<b>460.72</b>
<b>Norway - less Transport</b>	<b>916.63</b>	<b>971.43</b>	<b>948.88</b>	<b>1,368.00</b>	<b>1,690.90</b>	<b>2,381.79</b>

\* In Iceland and Liechtenstein the total volume of state aid is the same, irrespective of whether transport is included, since neither granted aid for this purpose.

**Table 1(b): EFTA States from 2004 to 2009 inclusive: Total state aid in constant prices (reference year 2000, re-referenced to 2009, in million Euro using annual average exchange rates)<sup>18</sup>**

EFTA State	2004	2005	2006	2007	2008	2009
Iceland	25.08	26.28	30.98	21.00	25.06	25.28
Liechtenstein	1.29	1.19	0.88	0.88	1.11	1.19
Norway	1,429.40	1,423.31	1,332.19	2,008.28	2,124.21	2,842.51
<b>Total State aid EFTA States</b>	<b>1,455.77</b>	<b>1,450.79</b>	<b>1,364.05</b>	<b>2,030.16</b>	<b>2,150.38</b>	<b>2,868.98</b>
<b>Transport</b>	<b>287.94</b>	<b>311.68</b>	<b>338.70</b>	<b>584.28</b>	<b>519.38</b>	<b>460.72</b>
<b>Norway - less Transport</b>	<b>1,167.84</b>	<b>1,139.11</b>	<b>1,025.34</b>	<b>1,445.88</b>	<b>1,631.00</b>	<b>2381.79</b>

\*In Iceland and Liechtenstein the total volume of state aid is the same for the years 2004-2009, irrespectively of whether transport is included, since neither 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 they have been adjusted 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.

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) shows that while Norway decreased the amount of aid granted in real terms between 2004 and 2006, it increased significantly between 2006 and 2009 by more than the double

<sup>17</sup> The annual average exchange rates are published by Eurostat.

<sup>18</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 aren't published for all EFTA States. However, the Authority has calculated an equivalent deflator on the basis of the GDP figures issued by Eurostat.

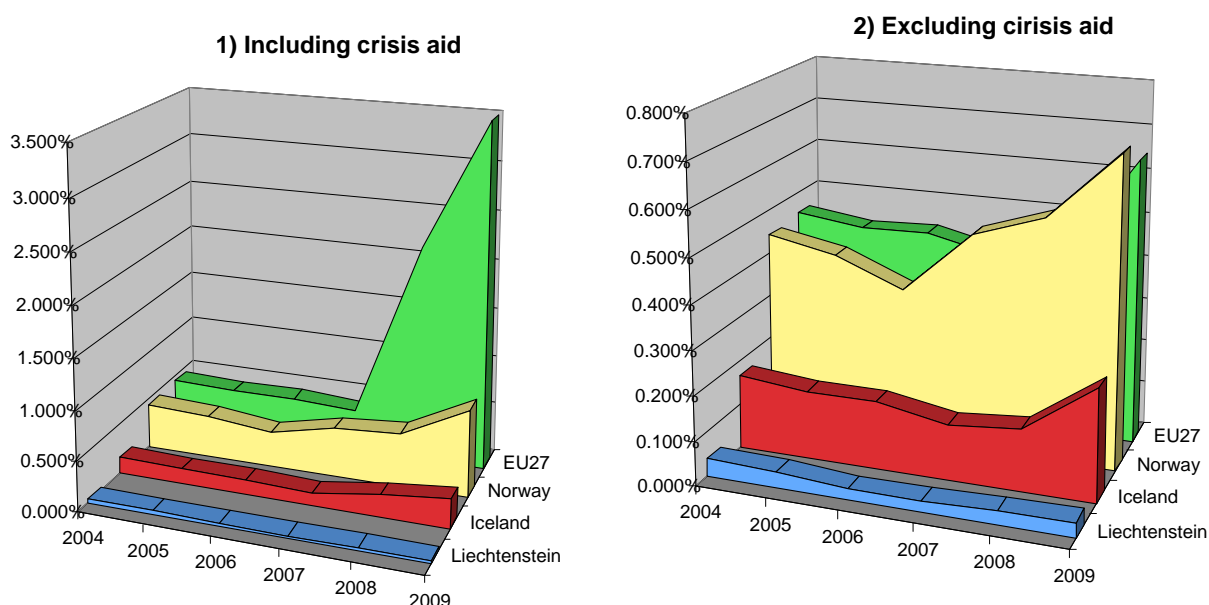


(approximately 117%). This was largely due to the introduction of financial crisis aid for Norwegian banks, increased aid for the Test Centre Mongstad (testing carbon capture technologies) and the grant of a substantial amount of aid to fitness centres in Norway operated by a student organisation.<sup>19</sup>

Table 1(b) shows that aid in Iceland increased considerably in 2006 but then decreased sharply in 2007. However, despite these exceptions the aid amount granted in Iceland has remained fairly constant at around € 25 million per annum during the period reviewed. 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 a lot more in 2009. This difference is due to the lower value of the Icelandic Krone in relation to Euro.

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 35%) between 2006 and 2009. Having said that, the amount of aid granted in Liechtenstein in 2009 still remains just 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 transport aid) as a proportion of GDP from the beginning of 2004 to the end of 2009: EFTA States and EU-27 average<sup>20</sup>**



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 two graphs have been prepared; one which *includes* financial crisis aid measures (Graph A(1)); and one which *excludes* such aid (Graph A(2)).

<sup>19</sup> The increases are in million Euro 470 (banking), 80 (Mongstad) and 73 (Fitness centres).

<sup>20</sup> GDP (in current prices and converted into Euro at annual average exchange rates) for the EFTA States in 2009; Norway € 27 2789.36 million; Iceland € 8 691.52 million and Liechtenstein € 3 579.47 million. Source: Eurostat.

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 - from which point the EU average far exceeded aid granted by Norway. Table 2 below confirms that, if financial crisis aid is *included*, Norway granted aid well below the EU average in 2009. By contrast, if financial crisis aid is *excluded*, Graph A(2) shows that Norway exceeded the EU average in 2009. This is also confirmed by Table 2.

Graphs A(1) and A(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.

**Table 2: State aid (not including transport aid) as a proportion of GDP in 2009: EFTA States and EU Member States<sup>21</sup>**

<b>States</b>	<b>Aid as a % of GDP (including financial crisis aid)</b>	<b>Aid as a % of GDP (excluding financial crisis aid)</b>
<b>Liechtenstein</b>	<b>0.03%</b>	<b>0.03%</b>
Estonia	0.30%	0.30%
<b>Iceland</b>	<b>0.29%</b>	<b>0.25%</b>
Slovakia	0.50%	0.50%
Italy	0.60%	0.40%
Romania	0.60%	0.60%
Czech Republic	0.70%	0.70%
Lithuania	0.70%	0.70%
<b>Norway</b>	<b>1.04%</b>	<b>0.70%</b>
Poland	1.00%	1.00%
Portugal	1.00%	0.90%
Finland	1.10%	1.10%
Spain	1.30%	0.60%
Slovenia	1.40%	0.80%
Hungary	1.80%	1.40%
Bulgaria	2.00%	2.00%
Malta	2.00%	1.90%
Netherlands	2.00%	0.40%
France	2.30%	0.80%
Cyprus	2.30%	1.00%
Luxembourg	2.70%	0.30%
<b>EU 27</b>	<b>3.50%</b>	<b>0.60%</b>
Sweden	3.60%	0.90%
Austria	3.90%	0.60%
Denmark	4.30%	0.90%
Germany	4.60%	0.70%
Latvia	4.70%	0.80%
Greece	5.90%	0.80%
Ireland	7.20%	0.90%
United Kingdom	7.50%	0.20%
Belgium	9.90%	0.60%

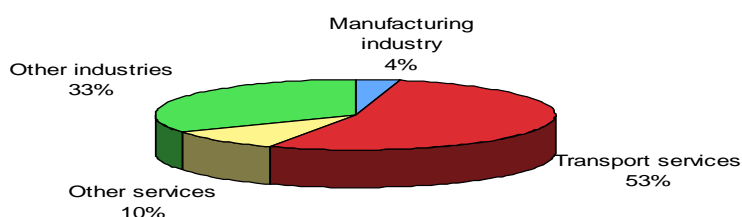
<sup>21</sup> Aid for agriculture and fisheries is not included in the data for the EU Member States and, as mentioned above, it is also not included for the EFTA States.

## 1.2. Sectoral aid

State aid may be earmarked for one or more specific industrial sectors. The sectors used in the scoreboard are: the manufacturing industry, other industries, transport services, and other services. 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-specific (or “sectoral”) aid for the purpose of this sub-section.<sup>22</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 industry, other industries, transport services and other services in the three EFTA States for 2009.<sup>23</sup> It shows that aid for the manufacturing industry represented 4% of total sectoral aid, while aid for transport services represented 53%. Aid for other services represented 10%; and the remaining group, other industries, received 33% of overall sectoral aid in 2009.

**Graph B: Aid by sector<sup>24</sup> as a percentage of total sectoral aid in the EFTA States in 2009 (excluding financial crisis aid)**



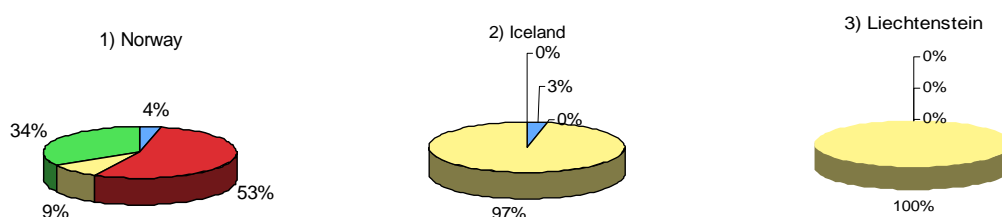
Graph B shows sectoral aid on an aggregate basis for 2009 for the three EFTA States. However, as referred above, the aggregate level of aid in the three EFTA States is dominated by the amount of aid granted by Norway. The smaller Graphs B(1 to 3) provide, therefore, an overview of the grant of sectoral 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>22</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>23</sup> Aid for “other industries” includes aid for forestry, hunting, electricity, gas and water supplies as well as mining and natural gas extraction.

<sup>24</sup> In total € 825.10 million was granted as sectoral aid in 2009 in the EFTA States. The aggregate amount for 2009 is divided as follows: Manufacturing industry: € 31.90 million; transport services: € 460.72 million; other services: € 115.06 million; and other industries: € 217.42 million.

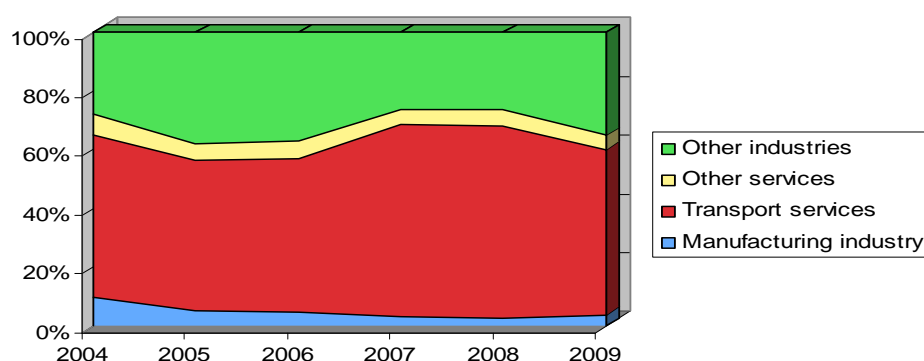
**Graphs B(1 to 3): Aid by sector as a percentage of total sectoral aid: Individual EFTA States in 2009 (financial crisis aid excluded).**



Graphs B(1 to 3) have changed compared to 2008 both for Norway and Iceland.<sup>25</sup> In Norway the main changes are that aid for other industries increased by around 8% percentage points while aid for other services increased by around 3 percentage points. The increases more or less correspond to a decrease in aid for transport by approximately 12% percentage points. In Iceland aid directed at other services increased dramatically from around 13% in 2008 to 97% in 2009. The increase was largely due to aid granted in the form of a guarantee to the main electricity suppliers in Iceland and to a lesser extent increased aid for film production.<sup>26</sup> This increase corresponds to a sharp decrease in manufacturing aid between 2008 and 2009 of 67% percentage points. In Liechtenstein all sectoral aid was directed at other services both in 2008 and 2009.

Graph C provides an overview of the spread of sectoral aid in Norway between 2004 and 2009 inclusive. Graph C shows that the level of aid directed at other industries first decreased between 2006 and 2007 and then increased between 2008 and 2009. The increase was mainly caused by increased aid for renewable energy production.<sup>27</sup> Norway is the only EFTA State which has reported the granting of transport aid (of which almost all is aimed at maritime transport).<sup>28</sup>

**Graph C: Aid by sector as a percentage of total sectoral aid in Norway from the beginning of 2004 to the end of 2009 (excluding financial crisis aid)**



<sup>25</sup> See corresponding Graphs B(1-3) in the [Scoreboard for 2008](#) (reflecting aid granted until 2008).

<sup>26</sup> Decision 302/09/COL of 8.7.2009 (which concerns existing aid that the Icelandic authorities are in the process of abolishing) and Decision 255/09/COL of 10.6.2009 on aid for film production.

<sup>27</sup> Decision 125/06/COL of 3.5.2006.

<sup>28</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. Generally speaking, horizontal aid is therefore considered to be less distortive of competition than sectoral aid or ad-hoc aid.<sup>29</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 and innovation) 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 2009.

**Table 3: Pure sectoral aid compared with aid for horizontal objectives as a percentage of total aid in 2009 (excluding transport aid and financial crisis aid)<sup>30</sup>**

<b>Aid with PURE SECTORAL objectives</b>	<b>EFTA States</b>	<b>Norway</b>	<b>Iceland</b>	<b>Liechtenstein</b>
Manufacturing industry	0.00%	0.00%	0.00%	0.00%
Other services	4.26%	3.86%	39.69%	0%
Other industries	0.00%	0.00%	0.00%	0%
<b>Total aid with sectorial objectives</b>	<b>4.26%</b>	<b>3.86%</b>	<b>39.69%</b>	<b>0%</b>
<b>Aid with HORIZONTAL objectives</b>				
R&D&I	20.43%	20.19%	42.59%	0%
Environment and energy saving	24.34%	24.64%	0.00%	0%
SME	4.98%	5.04%	0.00%	0%
Employment	0.07%	0.02%	4.27%	0%
Regional development	41.62%	42.05%	7.62%	0%
Other horizontal objectives*	4.31%	4.20%	5.84%	100%
<b>Total Aid with horizontal objectives</b>	<b>95.74%</b>	<b>96.14%</b>	<b>60.31%</b>	<b>100%</b>
<b>Total aid less transport in million Euro</b>	<b>1935.54</b>	<b>1912.02</b>	<b>21.72</b>	<b>1.80</b>

\* 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>31</sup>

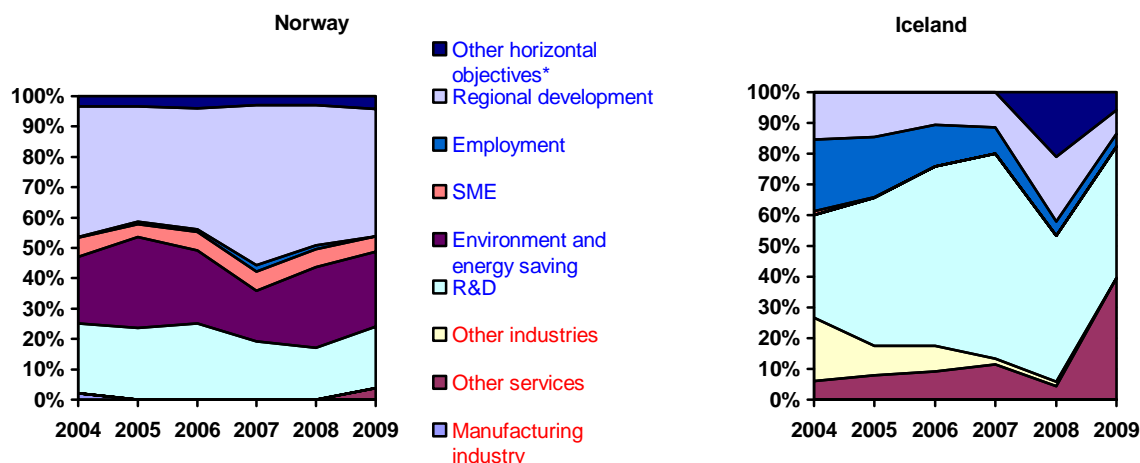
<sup>29</sup> As referred to in the introduction to this scoreboard, the Lisbon Agenda objectives of growth and competitiveness are cornerstones in the State Aid Action Plan.

<sup>30</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>31</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".

Table 3 shows that all three EFTA States granted most of their aid for horizontal purposes in 2009. Norway granted the vast majority of aid granted (96%) for horizontal objectives, within which approximately 42% (of total aid granted) was regional aid.<sup>32</sup> In Iceland approximately 60% of aid was awarded for horizontal objectives, within which around 43% (of total aid granted) was directed at research and development and innovation. Liechtenstein granted all of its aid for “other horizontal objectives”.

**Graphs D(1) and D(2): Types of horizontal and pure sectoral aid as a percentage of total aid (excluding transport aid and financial crisis aid) from the beginning of 2004 to the end of 2009**



The EFTA States had granted “better targeted” aid until 2008 but in 2009 the EFTA States granted more sectoral aid at the expense of horizontal aid and it is therefore uncertain whether the trend of granting “better targeted” aid will continue.<sup>33</sup>

Graphs D(1) and D(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.

Almost all aid in Norway pursued horizontal objectives during the period reviewed (Graph D(1)). However, Norway decreased regional aid and employment aid as a percentage of all aid between 2007 and 2009. This decrease corresponds largely to the introduction of new sectoral aid for services in the same year.

In Iceland, the share of sectoral aid followed a downward trend between 2004 and 2008. However, in 2009 sectoral aid increased considerably (Graph D(2)). The increase in sectoral aid in Iceland is connected to a guarantee scheme in favour of the main electricity suppliers in Iceland.<sup>34</sup> Nonetheless Iceland has consistently granted a large share of total aid for research and development and innovation in percent of total aid throughout the period reviewed.

<sup>32</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.

<sup>33</sup> Liechtenstein has remained stable since it has granted all its aid for horizontal objectives during the period reviewed.

<sup>34</sup> Decision 302/09/COL of 8.7.2009. The aid is existing aid which the Icelandic authorities are in the process of abolishing as required by the decision.

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 with aid for pure horizontal objectives as a percentage of total aid in 2009 (excluding transport aid and financial crisis aid)**

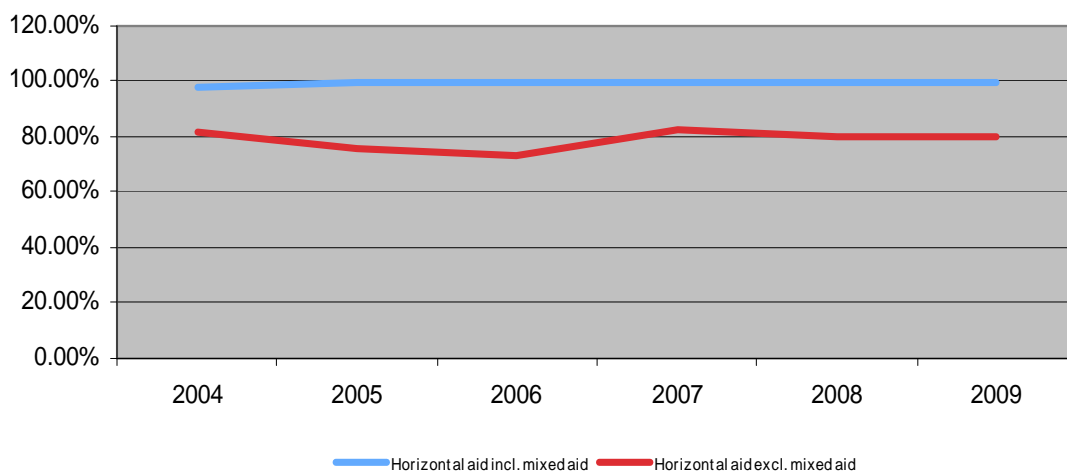
Aid with <b>SECTORAL</b> objectives	EFTA States	Norway	Iceland	Liechtenstein
Manufacturing sector	1.80%	1.80%	1.55%	0%
Other services	10.20%	9.71%	45.88%	100%
Other sectors	11.05%	11.19%	0.00%	0%
<b>Total aid with sectorial objectives</b>	<b>23.05%</b>	<b>22.70%</b>	<b>47.43%</b>	<b>100%</b>
<b>Aid with PURE HORIZONTAL horizontal objectives</b>				
R&D&I	20.02%	19.78%	42.59%	0%
Environment and energy saving	8.78%	8.89%	0.00%	0%
SME	4.92%	4.98%	0.00%	0%
Employment	0.07%	0.02%	4.27%	0%
Regional development	41.19%	41.63%	5.71%	0%
Other horizontal objectives*	1.98%	2.01%	0.00%	0%
<b>Total Aid with horizontal objectives</b>	<b>76.95%</b>	<b>77.30%</b>	<b>52.57%</b>	<b>0%</b>
<b>Total aid less transport and less crisis in million Euro</b>	<b>1935.54</b>	<b>1912.02</b>	<b>21.72</b>	<b>1.80</b>

\* 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 almost 20 percentage points in the case of Norway. In Iceland the proportion of sectoral aid increases from constituting about 40% of total aid to 47%. All aid granted by Liechtenstein was targeted at specific sectors and had horizontal objectives. 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.

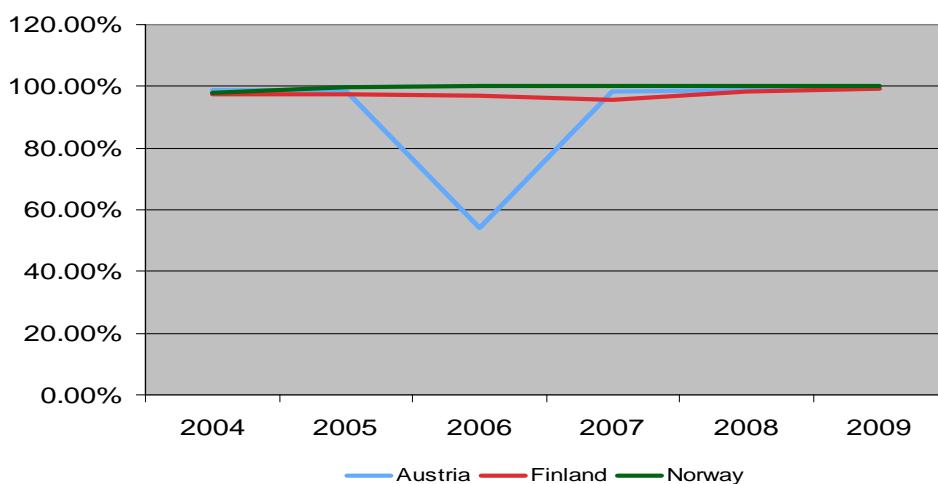
The importance of the classification of the aid is clearly reflected in Graph E (relating to Norway) which shows the difference between the proportion of horizontal aid when: (i) it includes aid which is also targeted at specific sectors (blue); and (ii) when horizontal aid is exclusive of any sectoral 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 (excluding transport aid and financial crisis aid) from the beginning of 2004 to the end of 2009 in Norway**



Finally, as in last year's scoreboard, Norway has been compared to a group of EU Member States. 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 (excluding transport aid and financial crisis aid) from the beginning of 2004 to the end of 2009: Norway and selected EU Member States**



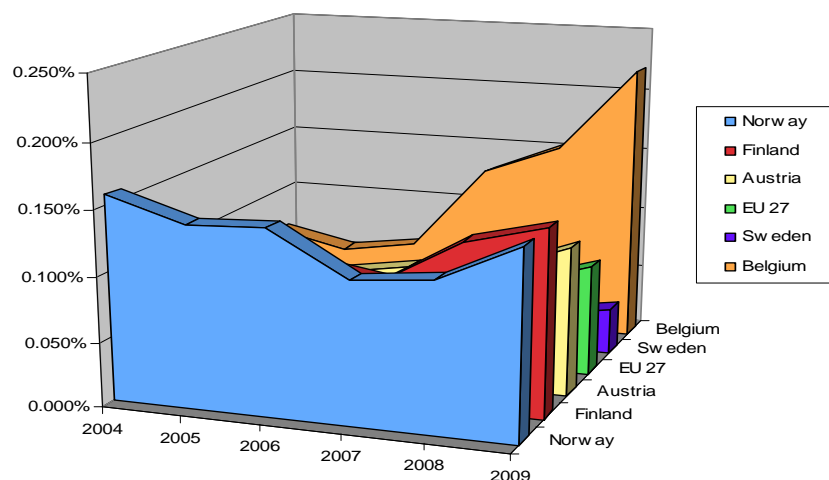
#### 1.4. State aid for research and development and innovation ("R&D&I")

Graphs G(1) and G(2) provide an overview of aid granted by the EFTA States for R&D&I purposes as a percentage of GDP compared to a group of comparable EU Member States.<sup>35</sup>

<sup>35</sup> The amount of aid for research and development and innovation purposes reflects all aid directed at research and development and innovation irrespective of whether research and development and innovation is the primary objective of an aid measure. This means that the amount of aid to research and development and innovation in Graphs G (1 and 2) is not the same as the amount of aid for the research and development and innovation included in Tables 3 and 4 on pages 14 and 16 above.



**Graph G(1): Overview of aid for R&D&I as a percentage of GDP from the beginning of 2004 to the end of 2009: 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 started increasing in 2008 up to a total of €393.29 million in 2009. Overall, the proportion of aid granted to R&D&I in Norway has been high in comparison to the EU-27 average<sup>36</sup> and is indeed amongst the highest in the EEA. As a proportion of total state aid, Norway granted 20.6% of total aid (excluding transport and financial crisis aid) for R&D&I purposes in 2009, while the EU-27 average (excluding transport and financial crisis aid) was 17.6% of total aid.<sup>37</sup>

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 2006 and 2008, Iceland still granted a considerably higher proportion of its aid to R&D&I in 2009 compared to the group of selected EU Member States (with the exception of Slovenia). Iceland is also in line with the EU-27 average. As a percentage of total aid (excluding transport and financial crisis aid) Iceland granted 42.6% (€9.25 million) in aid for R&D&I purposes in 2009 which is more than double the EU-27 average.

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

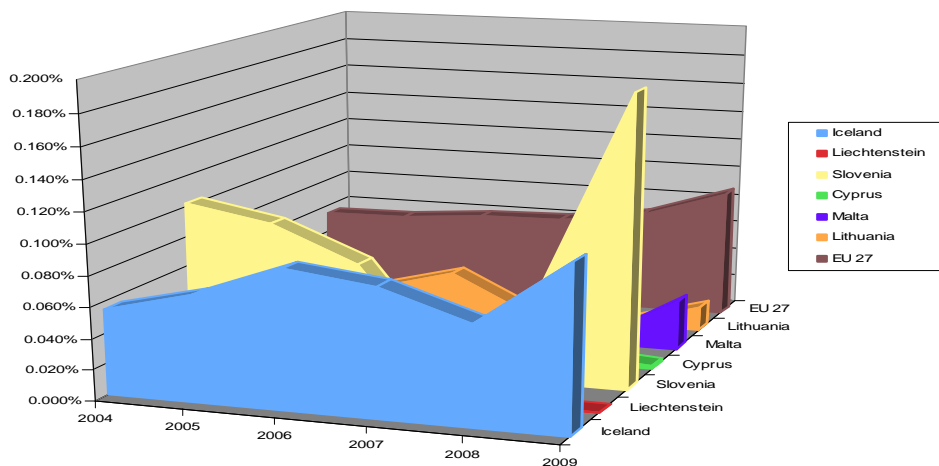
Finally, it should be noted that while Graphs G(1) and (2) may give the impression that the proportion of state aid directed towards R&D&I is relatively small in the countries subject to review, this does not necessarily mean that levels of public funding for R&D&I in these countries is low. Public funding 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 in the form of state aid for R&D&I purposes.<sup>38</sup>

<sup>36</sup> See the figure published in the report [accompanying the scoreboard at section 2.2.4 on aid for research and development](#) by the European Commission, autumn 2010.

<sup>37</sup> See the figure published in the report [accompanying the scoreboard at Table 1-3 in the Annex statistical tables](#) by the European Commission, autumn 2010

<sup>38</sup> See the figure published in the report [accompanying the scoreboard at section 2.2.4 on aid for research and development](#) by the European Commission, autumn 2010.

**Graph G(2): Overview of aid for R&D&I as a percentage of GDP from the beginning of 2004 to the end of 2009: Iceland and Liechtenstein and selected EU Member States**



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

Norway was the only EFTA State which granted aid for the protection of the environment and energy saving purposes.<sup>39</sup>

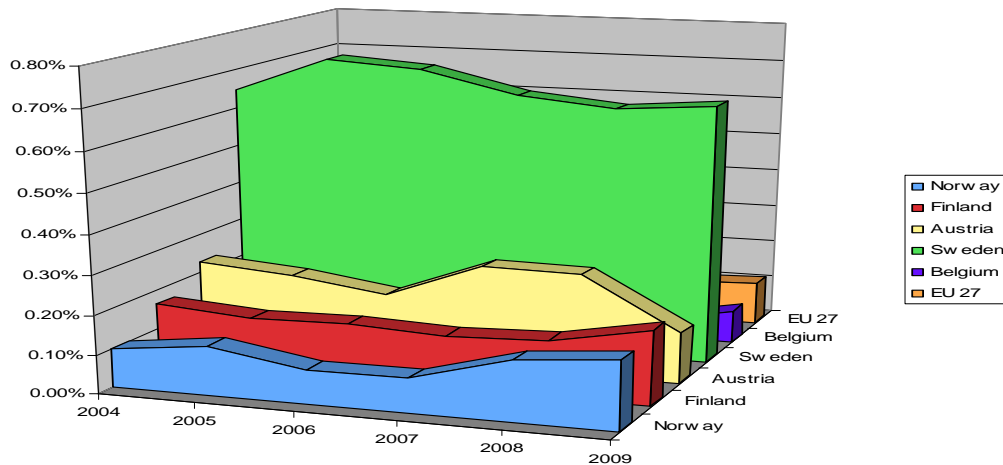
Graph H(1) reveals that Norway granted a proportion of aid for environmental protection of GDP well above the EU-27 average and has consistently done so throughout the period reviewed.<sup>40</sup> Again in 2009 Norway granted a higher percentage of aid for environmental purposes of total aid (excluding transport and financial crisis aid) than the EU-27 average: 24.6% of total aid (€471.18 million) as opposed to the EU-27 average which was 22.6% of total aid (excluding transport and financial crisis aid).<sup>41</sup>

<sup>39</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 14 and 16 above.

<sup>40</sup> See the figure published in the report [accompanying the scoreboard at section 2.2.6 on aid for environmental protection](#) by the European Commission, autumn 2010.

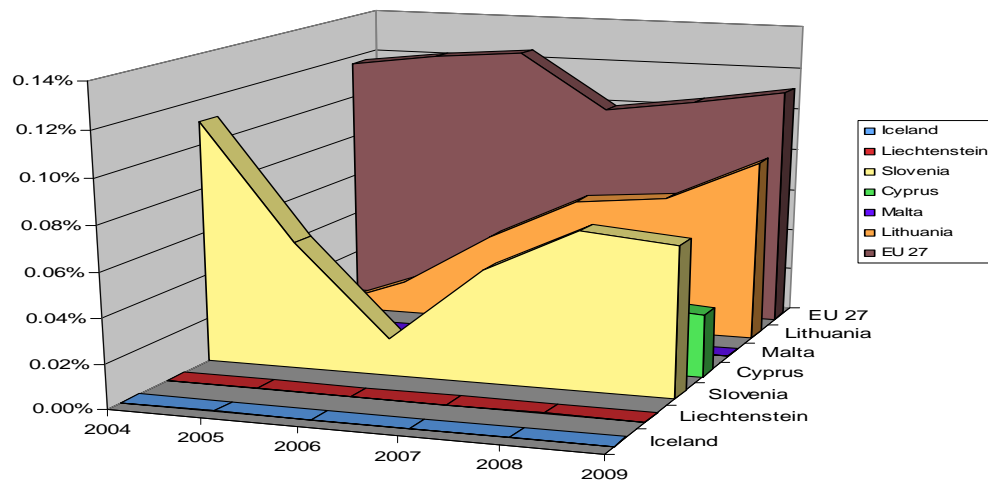
<sup>41</sup> See the figure published in the report [accompanying the scoreboard at Table 1-3 in the Annex on statistical tables](#) by the European Commission, autumn 2010.

**Graph H(1): Overview of aid for environmental protection and energy saving purposes as a percentage of GDP from the beginning of 2004 to the end of 2009: 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 GDP from the beginning of 2004 to the end of 2009: 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. Norway granted aid for regional development that was equal to 0.3% of GDP in 2009 (less financial crisis and transport aid), while the equivalent number for EU-27 was 0.1%. Table 3 on page 13 above shows that in 2009 approximately 42% of the total aid awarded by Norway was regional aid. This is considerably higher than the EU-27 average (which is 24% 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 2009 as a result of the introduction of more sectoral aid.

Iceland granted much less regional aid in proportional terms than Norway in 2008 (only around 8% of total aid), which is far lower than the EU average (excluding

financial crisis aid).<sup>42</sup> Furthermore, Graph D(2) on page 14 above shows that Iceland decreased significantly its share of aid granted for regional purposes between 2008 and 2009.

Liechtenstein did not grant any regional aid from 2004 to the end of 2009.

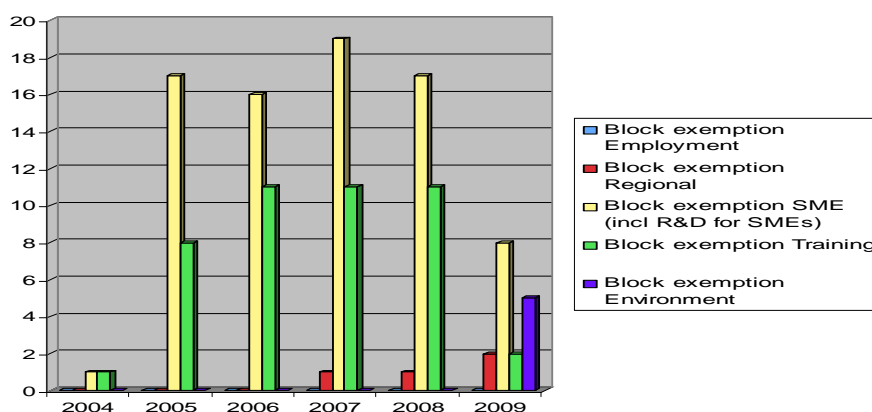
It should be recalled that Table 3 classifies aid which is directed at both horizontal and sectoral objectives as horizontal aid. If such aid is classified as sectoral aid, as is the case in Table 4 on page 15 above, this changes the position in 2009 as some of the regional aid granted also had a sectoral focus. Using this methodology slightly reduces the proportion of regional (horizontal) aid granted by Norway from 42.05% to 41.6%; and in the case of Iceland from 7.62% to 5.71%.

### 1.7. Aid awarded under the block exemption regulations

The five previous block exemptions were consolidated and harmonised into one General Block Exemption Regulation<sup>43</sup> which entered into force on 8 November 2008. The General Block Exemption increased the number of categories eligible for exemption (for example to research & development & innovation; environmental protection and the creation of enterprises by female entrepreneurs). The graph below illustrates the categories of aid under the previous block exemptions and the General Block Exemption.<sup>44</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 – although in 2009 the use of block exemptions was less pronounced than before. The table shows that Norway made most use of block exemptions to grant aid for SMEs and environmental protection.

**Graph I: Number of block exemptions used from 2004 to 2009 (inclusive) in Norway**



<sup>42</sup> However, if financial crisis aid is included the proportion of regional aid granted by Norway is higher than the EU average.

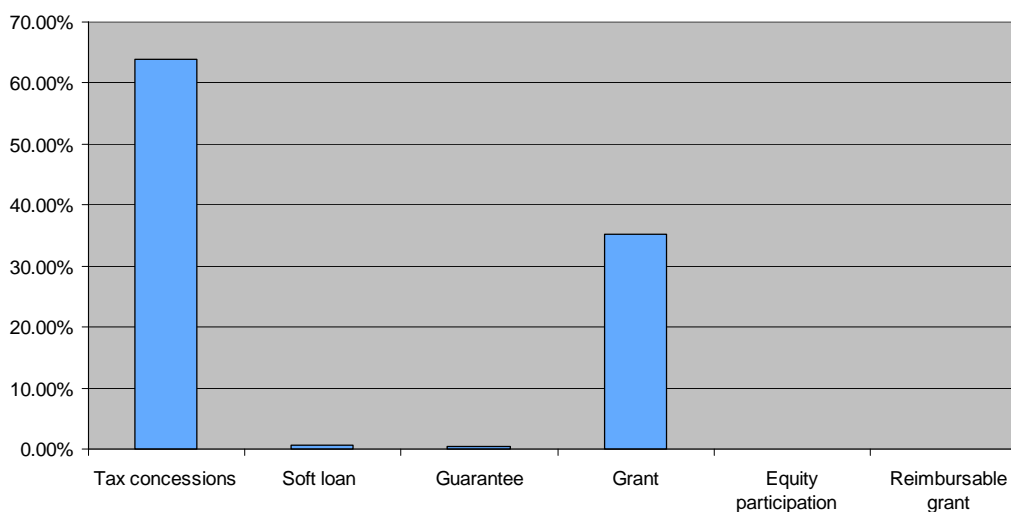
<sup>43</sup> The [Regulation](#) was incorporated into the EEA Agreement by Joint Committee Decision No. 120/2008, [OJ No L 339, 18.12.2008, p. 111](#) and [EEA Supplement No 79, 18.12.2008, p.20](#).

<sup>44</sup> Although one scheme has been reported under the General Block Exemption, no aid was granted in 2008 under this scheme.

## 1.8. State aid instruments

Graph J below shows the extent to which the EFTA States made use of different state aid instruments in 2009. 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 (64%) and around one third in the form of grants (about 35%). 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 (including transport aid and excluding financial crisis aid) in 2009 in the EFTA States**



**Table 6: Aid instruments as a percentage of total aid (including transport aid and excluding financial crisis aid) in 2004-2009 in the EFTA States**

	2004	2005	2006	2007	2008	2009
Tax concessions	55.21%	57.66%	56.08%	67.10%	68.65%	63.79%
Soft loan	1.38%	0.86%	0.75%	0.38%	0.69%	0.67%
Guarantee	0.04%	0.04%	0.04%	0.02%	0.00%	0.33%
Grant	43.27%	41.32%	42.95%	32.39%	30.74%	35.14%
Equity participation	0.01%	0.00%	0.00%	0.01%	0.00%	0.01%
Reimbursable grant	0.09%	0.11%	0.18%	0.11%	0.04%	0.05%
<b>Total aid</b>	<b>1141.14</b>	<b>1233.154</b>	<b>1251.113</b>	<b>1836.839</b>	<b>2316.073</b>	<b>2395.65</b>

## 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>45</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>46</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>47</sup> research, development and innovation;<sup>48</sup> regional development (for 2007-2013);<sup>49</sup> environmental protection;<sup>50</sup> aviation and railway undertakings.<sup>51</sup> More recently (in 2008 and 2009), the Authority has also adopted guidelines on aid for cinematographic and other audiovisual works;<sup>52</sup> ship management companies;<sup>53</sup> and training and employment of disadvantaged and disabled workers.<sup>54</sup> Also, guidelines setting out the criteria for an in-depth assessment of regional aid to large investment projects have been adopted.<sup>55</sup> New guidelines have also been adopted on the deployment of

<sup>45</sup> [State aid Action plan.](#)

<sup>46</sup> The EEA Joint Committee ensures 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>47</sup> Decision No. 313/06/COL of 25.10.2006 to adopt [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>48</sup> Decision No. 14/07/COL of 7.2.2007 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>49</sup> Decision No. 157/2006 of 8.12.2007 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 29.03.2007, p. 33; EEA Supplement No. 15, 29.3.2007, p. 26.

<sup>50</sup> Decision No. 500/08/COL of 16.7.2008 to adopt [guidelines on state aid for environmental protection](#), OJ L 144 of 10.06.2010, p. 1; EEA Supplement No. 29, 10.06.2010. The decision has not been yet published in the Official Journal but is available on the Authority's website.

<sup>51</sup> Decision No. 329/05/COL of 20.12.2005 and Decision No. 788/08/COL of 17.12.2008 to adopt guidelines on [financing of airports and start up aid to airlines](#) and [state aid for railway undertakings](#). The former decision has not yet been published (but is available at the Authority's website) while the latter decision is published in OJ L 62, 06.03.2008, EEA Supplement No. 12 of 06.03.

<sup>52</sup> Decision No. 788/08/COL of 17.12.2008 on [cinematographic and other audiovisual works](#). The decision has not been yet published in the Official Journal but is available on the Authority's website. The Commission guidelines are published in OJ C 43, 16.2.2002, p. 6.

<sup>53</sup> Decision No. 397/09/COL of 14.10.2009 [on state aid to ship management companies](#). The decision has not been yet published in the Official Journal but is available on the Authority's website. The Commission guidelines are published in OJ C 132 of 11.6.2009, p. 6.

<sup>54</sup> This concerns guidelines on individual notification of training aid and aid for the employment of disadvantaged workers not covered by the General Block Exemption Regulation. Decision No. 471/09/COL of 25.11.2009 on [training aid subject to individual notification](#); and Decision No. and 532/09/COL of 16.12.2009 on [state aid for employment of disadvantaged workers](#). The decisions have not been yet published in the Official Journal but is available on the Authority's website. The Commission guidelines are published in [OJ C 188 of 11.8.2009, p. 1 and 6](#).

<sup>55</sup> Decision 98/10/COL on [in-depth assessment of regional aid to large investment projects](#) of 24.3.2010. The Commission's communication is published in O J C 223, 16.9.2009, p.3.

broadband networks and revisions have been made to the guidelines on broadcasting.<sup>56</sup> Also linked to the State Aid Action Plan, the Authority has adopted new guidelines on aid granted in the form of guarantees as well as on reference and discount rates.<sup>57</sup>

No changes have been made to the guidelines on state aid for shipbuilding and existing guidelines have therefore been prolonged until 31 December 2011.<sup>58</sup> Similarly, due to the financial crisis, it was not possible to constructively revise the guidelines on aid for rescuing and restructuring firms in difficulty; for that reason, the existing guidelines have been extended for a further three years, until 30 November 2012.<sup>59</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>60</sup> and on the enforcement of state aid rules by national courts.<sup>61</sup> The standard forms for notifying aid have also been improved.<sup>62</sup> Finally, simplified notification procedures for the treatment of certain types of (straightforward) state aid have been introduced as well as a Best Practices Code to improve the effectiveness of procedures.<sup>63</sup>

Finally, the State Aid Action Plan has led to revisions of the block exemptions regulations. The Commission Regulation on *de minimis* aid<sup>64</sup> and the new General Block Exemption Regulation<sup>65</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

<sup>56</sup> Decision Nos. 34/10/COL on the [deployment of broadband networks](#) and 35/10/COL on [state aid for broadcasting](#) of 3.2.2010. The decisions have not yet been published in the Official Journal but are available on the Authority's website. The Commission guidelines are published in [OJ C 235, 30.9.2009, p. 7](#); and [OJ C 257 of 27.10.2009, p. 1](#).

<sup>57</sup> Decision No. 788/08/COL of 17.12.2008 on [guarantees](#) and [discount rates](#). The decision has not been yet been published in the Official Journal but is available on the Authority's website. 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>58</sup> Decision No. 637/08/COL of 8.10.2008 [to prolong guidelines on state aid to shipbuilding](#), OJ L 148 of 11.06.2009, p.55; EEA Supplement No.30, p.21.

<sup>59</sup> Decision No. 433/09/COL of 30.10.2009 [to prolong guidelines on aid for rescue and restructuring firms in difficulty](#), OJ L 48 of 25.02.2010, p.27; EEA Supplement No. 9 of 25.02.2010.

<sup>60</sup> Decision No. 788/08/COL of 17.12.2008 [on recovery of aid](#). The decision has not been yet been published in the Official Journal but is available on the Authority's website. The Commission guidelines are published in OJ 2007 C 272, 15.11.2007, p. 4.

<sup>61</sup> Decision No. 254/09/COL of 10.6.2009 [on enforcement of state aid rules by the national courts](#). The decision has not been yet been published in the Official Journal but is available on the Authority's website. The Commission guidelines are published in OJ C 85, 09.04.2009 p.1

<sup>62</sup> Decision No. 789/08/COL of 17.12.2008 on [the standard forms for notification of aid](#).

<sup>63</sup> Decision Nos. 533/09/COL on [simplified notification procedures](#) and 534/09/COL on a [Best Practices Code](#) of 16.2.2009. The decisions have not yet been published in the Official Journal but are available on the Authority's website. The Commission guidelines are published in [OJ C 136, 16.06.2009, p. 3 and 13](#).

<sup>64</sup> Decision No. 29/2007 of 27.4.2007 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>65</sup> Commission Regulation (EC) No. 800/2008 of 6.8.2008 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.

regulations.<sup>66</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.

## 2.2. The financial crisis

### 2.2.1. Measures to assist financial institutions

The financial crisis and the break-down of the inter-lending banking market required the Authority to adopt guidelines on aid to the banking sector. The Authority has adopted the following four sets of temporary guidelines (which correspond to those issued by the European Commission) on support to financial institutions within the EFTA States. In general the aim of the guidelines is to restore financial stability and ensure continued lending to the real economy.

1. 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>67</sup>
2. Guidelines on recapitalisation of financial institutions in the financial crisis;<sup>68</sup>
3. Guidelines on the treatment of impaired assets in the banking sector;<sup>69</sup> and
4. Guidelines under the framework of the Banking Guidelines on restructuring and the return to viability of banks that aren’t fundamentally sound.<sup>70</sup>

All four sets of guidelines will be prolonged to apply until 31 December 2011. The Authority will adopt a decision to this end in the beginning of 2011.

### 2.2.2. Measures for the real economy

On 29 January 2009, the Authority adopted guidelines for assisting the real economy.<sup>71</sup> This was necessary because the drying up of the lending market meant

<sup>66</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.

<sup>67</sup> Decision 28/09/COL of 29.1.2009 [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. The Commission guidelines are published in OJ C 270, 25.10.2008, p.8.

<sup>68</sup> Decision 28/09/COL of 29.1.2009 [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. The Commission guidelines are published in OJ C 10, 15.1.2009, p. 2.

<sup>69</sup> Decision 191/09/COL of 22.4.2009 [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. The Commission guidelines are published in OJ C 72, 26.03.2009, p. 1.

<sup>70</sup> Decision 472/09/COL of 25.11.2009 [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. The Commission guidelines are published in [OJ C195, 19.8.2009, p. 9](#).

<sup>71</sup> Decision 28/09/COL of 29.1.2009 [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 available on the Authority’s website. The Commission guidelines are published in OJ C 83, 7.4.2009, p.1.



that otherwise sound companies have been unable to obtain finance. The guidelines have been amended somewhat and extended until 31 December 2012.<sup>72</sup>

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<sup>72</sup> Decision 484/10/COL of 15.12.2010. The decision has not yet been published. Equivalent Commission guidelines have also been extended until 31.12.2011.

### 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>73</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. That is the case in spite of the fact that Article 14(3) of Protocol 3 to the Surveillance and Court Agreement 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>74</sup> The European Court has confirmed that national procedures which do not meet the conditions of immediate and effective execution of a recovery decision must be left unapplied.<sup>75</sup>

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

In the period between 2004 and July 2010, the Authority adopted 10 recovery decisions concerning the EFTA States, of which three remain 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>76</sup> The second pending recovery case was initiated in 2006 against Norway and involves the energy savings fund, “Enova”.<sup>77</sup> The third pending recovery case was commenced in 2010 against Liechtenstein and concerns favourable taxation for certain types of investment undertakings.<sup>78</sup>

The Authority has closed five recovery cases involving Norway. One of the cases was closed on the grounds that recovery proceedings against the beneficiary company (the Norwegian Aviation School) had failed because the company had insufficient assets to cover its debts.<sup>79</sup> The oldest case against Norway, dating back to 2004, involved exemptions from electricity taxes and was closed in the first half of 2009.<sup>80</sup> A third case, Entra, involving tax relief, was initiated in December 2005 and closed early in

<sup>73</sup> Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

<sup>74</sup> This rule corresponds to Article 14(3) of Council Regulation No. 659/1999 of 22.3.1999 laying down detailed rules for the application of Article 93 (now Art. 108 TFEU) of the EC Treaty, OJ L 83/1, 27.03.1999, p.1. Emphasis added.

<sup>75</sup> Case C-232/05 *Commission v France* (“Scott”) [2006] ECR I-10071, paragraph 53.

<sup>76</sup> Decision 21/04/COL of 25.2.2004. Upon submission of the case by the Authority to the EFTA Court, the latter ruled on 25.11.2005 that the aid had to be recovered (Case E-2/05).

<sup>77</sup> Decision 125/06/COL of 3.5.2006.

<sup>78</sup> Decision 416/10/COL of 2.11.2010.

<sup>79</sup> Decision 290/09/Col of 1.7.2009.

<sup>80</sup> Decision 148/04/COL of 30.6.2004. The decision (which involved electricity tax exemptions in favour of the manufacturing and mining industries) was appealed to the EFTA Court, which upheld the Authority’s decision in a judgment dated 21.7.2005 (Joined Cases E-5/05, 6/04, 7/04).

2006.<sup>81</sup> The fourth recovery case, concerning the VAT Compensation Act, was initiated in May 2007 and closed in 2008.<sup>82</sup> The fifth recovery case against Norway involved the road construction and maintenance company, "Mesta". The case was commenced in 2009 and closed in 2010.<sup>83</sup>

In 2010, two recovery cases were commenced against Liechtenstein, one was the investment undertakings case referred to above and the other involved tax exemptions for captive insurance companies.<sup>84</sup> Both cases have been challenged and will be considered by the EFTA Court during 2011.

The Authority continues its efforts to obtain information from the EFTA States on outstanding aid amounts that need 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 States, up to the end of 2010**

	Situation 31/12/03	2004		2005		2006		2007	
		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
Liechtenstein	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
<b>Total</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>0</b>

	2008		2009		Cases pending 31/12/09	2010		Cases pending 1/12/10
	New cases	Cases closed	New cases	Cases closed		New cases	Cases closed	
Iceland	0	0	0	0	1	0	0	1
Liechtenstein	0	0	0	0	0	2 <sup>i, j)</sup>	0	1
Norway	1 <sup>f)</sup>	1 <sup>e)</sup>	2 <sup>h, g)</sup>	2 <sup>b, g)</sup>	3	0	2 <sup>h, f)</sup>	1
<b>Total</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>4</b>	<b>2</b>	<b>3</b>	<b>3</b>

a) International Trading Companies
b) Electricity tax
c) Entra
d) Enova
e) VAT compensation
f) Woodscheme
g) Norwegian Aviation College AS
h) Mesta
i) Captives
j) Investments undertakings

<sup>81</sup> Decision 318/05/COL of 14.12.2005.

<sup>82</sup> Decision 155/07/COL of 3.5.2007.

<sup>83</sup> Decision 390/09/COL of 7.10.2009.

<sup>84</sup> Decision 97/10/COL of 24.3.2010.

**Table 7: Overview of recovery cases indicating amounts to be recovered and amounts recovered up to December 2010**

Decision Number	Working title of 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 interest until effective recovery)	NOK 583,077 (the rest is pending on a process of liquidation)	No
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
390/09/COL	Mesta	Norway	7 October 2009	NOK 101.4 million + interest per 1.6.2010 (25.8 million)	NOK 127.2 million	No
416/10/COL	Investment undertakings	Liechtenstein	2 November 2010			Yes
97/10/COL	Captives	Liechtenstein	24 March 2010	CHF 20.827.286	NOK 20.827.286	No

## **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 was first 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>85</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.

All data on the EFTA States has been obtained from the annual reports (which also include information on recovery cases) 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 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 in the particular region it will be classified as regional aid.

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<sup>85</sup> [http://ec.europa.eu/comm/competition/state\\_aid/newsletter/index.html](http://ec.europa.eu/comm/competition/state_aid/newsletter/index.html)

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>86</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>86</sup> [http://ec.europa.eu/competition/state\\_aid/studies\\_reports/2010\\_autumn\\_en.pdf](http://ec.europa.eu/competition/state_aid/studies_reports/2010_autumn_en.pdf)