



ESA at a glance



Making the EEA Agreement work

Since the launch of the EEA project, people and businesses in Iceland, Liechtenstein and Norway have enjoyed better economic conditions and higher environmental, health and social standards. It is a force for job creation, innovation and knowledge. The EEA provides opportunities to travel, work, study, and live across the EEA.

In times of crisis, such as the 2008 financial crisis and the 2020 COVID-19 pandemic, the EEA States have stood together, collaborating to protect their citizens and businesses, and building stronger and more resilient solutions to face the challenges and shape the opportunities of the future. Only together can we mitigate the effects of climate change in a New Green Deal and turn digitalisation into an opportunity for Europe.

To meet and overcome new challenges requires constant innovation and adaptation. In Europe, this has led to the establishment of specialised EU agencies mandated to supervise, coordinate and regulate specific sectors or activities. This broadened ESA's mandate and changed its work, for example in the financial services sector, in which ESA is tasked with the supervision of the financial markets in the EEA EFTA States.

No doubt these are challenging times for the EEA. Yet we are also living in a time of opportunities in which we reaffirm our shared fundamental values and find common European solutions to common European problems. This requires cooperation and dialogue as well as effective, accountable and inclusive public institutions.

At the EFTA Surveillance Authority we are committed to doing our part to protect and safeguard the EEA Agreement, and ensure that its benefits can be enjoyed by people and businesses across Europe.

The EEA Agreement in Iceland, Norway and Liechtenstein

The four freedoms



Persons



Capital



Goods



Services

The EEA Agreement provides a wide range of rights to people across the European Economic Area. In Iceland, Liechtenstein and Norway, ESA works to make sure you can fully reap the benefits of the EEA Agreement. It guarantees that people and businesses in the three EEA EFTA States, together with those in the EU Member States, can enjoy the full benefits of the four freedoms.

In a successful and fair Internal Market, everyone plays by the same rules. ESA's role is to make sure that Iceland, Liechtenstein and Norway implement and follow the common rules, enabling them to participate in the European Internal Market. ESA can act if the EEA EFTA States fail to implement new EEA rules correctly or in a timely manner, or if they breach or misapply EEA law.

How ESA investigates

ESA monitors how the three EEA EFTA States are performing and can open an investigation if it becomes aware of potential problems concerning the rules governing the Internal Market. ESA can act after receiving a complaint, or on its own initiative. The investigation may lead to formal infringement proceedings being launched to protect the rights of individuals and undertakings.

Three formal steps of an infringement procedure



Letter of formal notice

1. **ESA sends a letter of formal notice, setting out ESA's view on why the State's conduct breaches EEA law, giving the State a chance to respond.**



Reasoned opinion

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



Bring the case to court

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



Cooperation with the courts

DID YOU KNOW?

Recently the CJEU granted ESA and the EEA EFTA States the right to intervene in direct actions between the Commission and EU Member States, which ensures that the EFTA pillar perspective can be heard in this type of case.

National Courts in Iceland, Liechtenstein and Norway can refer questions of EEA law to the EFTA Court for an interpretation. The Court delivers an advisory opinion after hearing submissions from the parties involved in the national court case, and from ESA, the European Commission, and any interested States.

Alongside its work at the EFTA Court, ESA regularly intervenes in important EEA-relevant cases at the Court of Justice of the European Union (CJEU). Recent interventions have covered judicial independence, rights of free movement of persons, and competition and state aid law.



ESA participates in virtual court hearing in 2020

Cooperation with EU agencies and institutions

Since Norway, Iceland and Liechtenstein joined the European Economic Area, ESA has been tasked with monitoring compliance with the EEA Agreement. Its work is similar to the European Commission's role in the EU Member States.

Collaboration with the Commission is crucial for ESA to fulfil its mandate, to ensure a harmonised EEA market. In recent years, the EU has had a growing number of specialised agencies, which has also led to an expansion of the ESA's work and a need for even closer collaboration.

Examples of agencies and institutions that ESA collaborates with include The European Aviation Safety Agency (EASA) on transport issues, and ACER, the European Union Agency for the Cooperation of Energy Regulators.

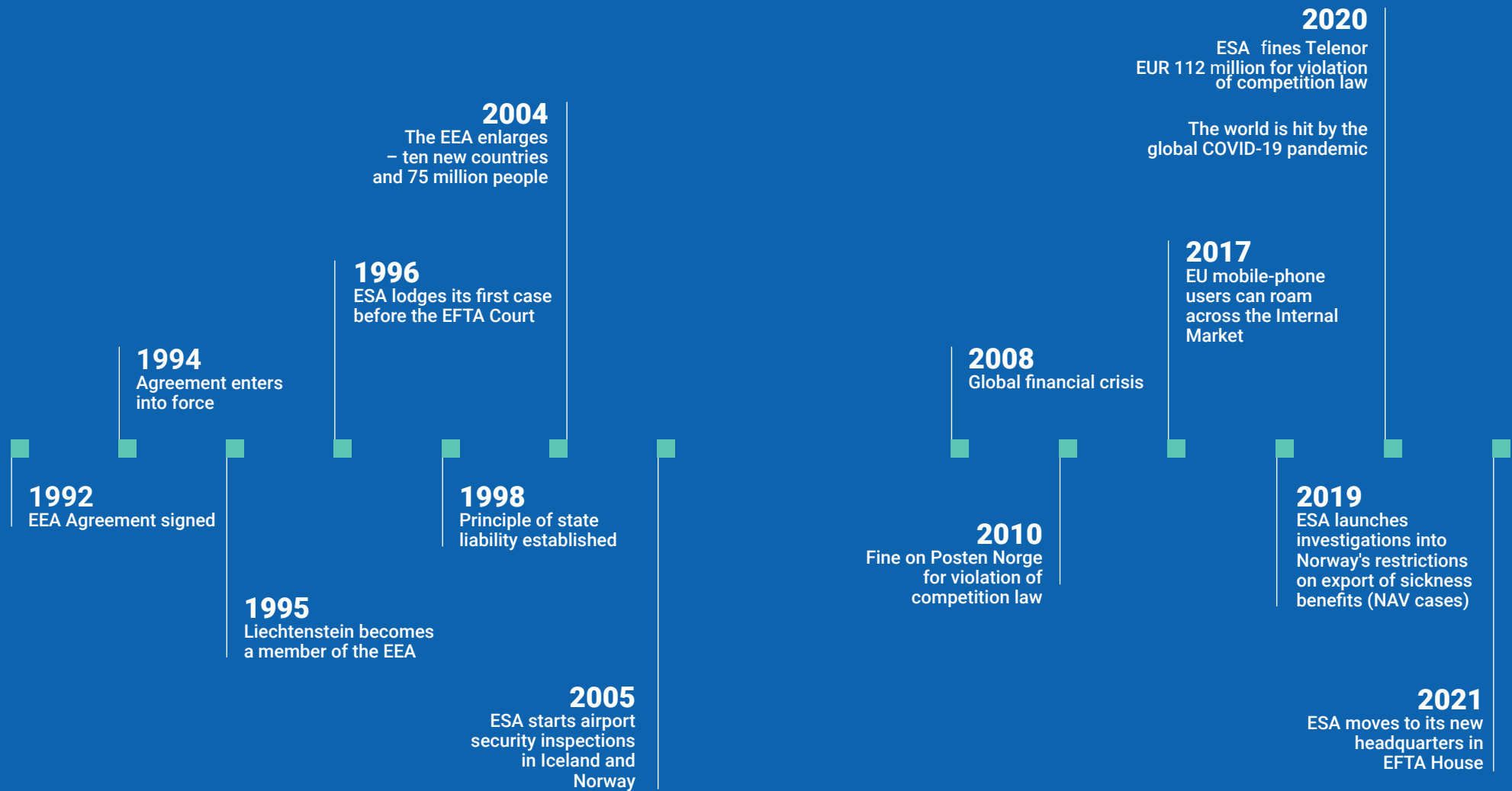
ESA acts as a financial supervisory authority for the EEA EFTA States. This entails close cooperation with European supervisory authorities, including the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), and the European Securities and Markets Authority (ESMA).

DID YOU KNOW?

ESA has made submissions in competition cases in Icelandic and Norwegian courts to help ensure effective protection of competition at national level.

On competition matters, ESA participates in the European Competition Network (ECN), a mechanism established to counter companies that engage in cross-border practices restricting competition.

Timeline



EEA goes green



Contributing to climate ambitions

Since 2019, Iceland, Norway and the European Union have deepened their cooperation on climate action. Regulations on effort sharing and land use, land use change and forestry regulations have all been incorporated into the EEA Agreement.

ESA will oversee that Iceland and Norway meet their targets for greenhouse gas emissions under these framework agreements.

Towards the end of 2020, ESA adopted "forest reference levels" for Iceland and Norway for the 2021-2025 period. These reference levels help states account for their net carbon emissions from managed forest land. In July 2021, ESA set binding annual emissions targets for Iceland and Norway for the 2021-2030 period for the agriculture, building, waste, and transport sectors.

The EEA EFTA States participate in the European Emission Trading System (ETS), a carbon market functioning across the EEA and a cornerstone of policies to reduce the continent's greenhouse gas emissions. The ETS is currently in its fourth trading period, which will run until 2030. ESA has collaborated closely with the European Commission in the preparations for the fourth phase of the ETS.

Supporting energy-market integration

ESA is following up on the implementation of the Third Energy Package, which entered into force in the EEA EFTA States in 2019. This package aims at improving the functioning of the internal market for energy. In accordance with the two-pillar institutional set-up of the EEA Agreement, ESA cooperates with the European Agency for the Cooperation of Energy Regulators ("ACER") when adopting decisions relevant for the EEA EFTA States.



Equal treatment

DID YOU KNOW?

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

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

2007 Survivor's pension in Norway

ESA in 2007 brought Norway before the EFTA Court for discrimination between men and women. Under Norwegian rules, a widow whose spouse had become a member of the Public Pension Fund prior to 1 October 1976 would be entitled to a full survivor's pension, whereas a widower in the same situation would receive a more limited survivor's pension. The Court ruled that this difference in treatment represented unlawful discrimination.

2017 Insurance in Liechtenstein

Under EEA law, a state cannot allow insurance companies to use gender as a factor when they calculate premiums and benefits, leading to different rates for men and women. ESA in 2017 initiated infringement proceedings in order to ensure that Liechtenstein fulfilled its obligation to ensuring equal treatment and non-discrimination between men and women.



Pandemic response

There is no doubt that 2020 was an exceptional year with the COVID-19 pandemic affecting all of ESA's work and working methods.

On 12 March 2020 ESA was able to switch over the entire organisation to working remotely, allowing operations to continue as close to normal as possible while at the same time protecting staff.

In the field of state aid, the caseload reached record levels as the EEA EFTA States introduced a range of support measures to mitigate the negative economic effects of the pandemic.

ESA set up a dedicated state aid task force to assist the EEA EFTA States in granting aid to support the economy, in line with EEA rules. The European Commission adopted a Temporary Framework for State Aid to enable the EU Member States to support the economy during the pandemic. ESA applied the conditions set out in the Temporary Framework when assessing the compatibility of state aid granted by the EEA EFTA States under Article 61(3)(b) EEA.

ESA, as part of the European Competition Network, took measures to limit negative effects on the market, and to ensure that companies would not abuse the situation and gain unfair advantages.

COVID-19 required ESA to adapt the way its critical work was conducted. For example, food and veterinary audits and transport inspections, which would normally be carried out in person and on site, had to be conducted digitally and remotely.

The EEA EFTA Separation Agreement with the UK

The EEA EFTA States reached an agreement with the United Kingdom following its departure from the EU.

The Separation Agreement guarantees UK nationals and their family members living in the EEA EFTA States many of the same rights that were previously protected by EEA law, including the right to work, study and travel freely between the UK and the EEA and to live in the EEA EFTA States.

ESA has been tasked with overseeing the implementation and application in the EEA EFTA States of “citizens’ rights”: monitoring that the rights of UK nationals are respected in Norway, Iceland and Liechtenstein.

The UK’s Independent Monitoring Authority (UK IMA) for the Citizens’ Rights Agreements has a similar role for nationals of EEA EFTA States and their family members residing in the UK. ESA and the UK IMA update each other annually on measures taken to implement and enforce these rights.



Market access



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

Opening the market for new products

ESA challenged a Norwegian ban on the sale of fortified breakfast cereals. The EFTA Court in 2001 concluded that Norway had failed to fulfil its EEA obligations, as it had been inconsistent in which products it had allowed to be sold and which it had banned. This is one of the best-known examples where EEA law facilitated the placing of a product on the market of an EEA EFTA State.

Discriminatory taxes

In Norway, national lottery prizes above NOK 10 000 were exempted from income tax. In contrast, if a Norwegian resident won an equivalent amount in a lottery abroad, they were forced to pay tax on their winnings. This made it less attractive for foreign lotteries to offer games to Norwegian residents. ESA saw this as a restriction on the freedom to provide services, which ultimately led to Norway amending its rules. While ESA does not interfere with the general taxation policies of the EEA EFTA States, it may intervene if it considers that taxes are discriminatory, for example by unjustifiably restricting one of the four freedoms or by infringing state aid rules.

DID YOU KNOW?

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

Public health

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

Ambient air quality

Air pollution poses a significant threat to the health of citizens across the EEA and is a widespread problem in Europe. ESA in 2015 brought Norway before the EFTA Court after Oslo, Bergen, Trondheim, and other areas repeatedly exceeded the European limits for pollutants between 2008 and 2012. This resulted in Norway having to establish action plans setting out measures to curb pollution in major cities across Norway, this work is still ongoing.

Tobacco and smoking devices

When Norway amended its rules on tobacco advertising to include a ban on the visual display of all tobacco products in stores, a tobacco producer brought a court action challenging the ban, arguing that it was equivalent to a quantitative import restriction on the free movement of goods. The EFTA Court in 2011 held that the EEA Agreement permits EEA States to impose such possibly restrictive measures on the sale of tobacco products in order to protect citizens on public health grounds, as long as these measures are proportionate.



Financial services



New legislation

The EEA EFTA States participate in the internal market for financial services, including the European system of financial supervision. As EEA law in the field has expanded following the financial crisis, ESA's role in monitoring the adequate and timely implementation of such rules in the EEA EFTA States has become increasingly important.



New powers

ESA, and the three European Supervisory Authorities – the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA) – are tasked with supervising the financial sector, cooperating closely and exchanging information to ensure consistency across the EEA.

Such cooperation is crucial for ESA, allowing the organisation to stay updated on current trends and regulatory developments, particularly in the field of anti-money laundering and countering the financing of terrorism, and to strengthen its implementation in the EEA EFTA States.

Credit-rating agencies

In the EFTA pillar, ESA is the designated supervisory authority responsible for the registration of credit-rating agencies and trade repositories. Once registered, credit-rating agencies and trade repositories are subject to ongoing supervision and monitoring by ESA, in close cooperation with ESMA (the designated Authority in the EU pillar) to ensure that the conditions for registration are continuously met. In 2018, ESA registered the first credit-rating agency based in an EEA EFTA State.

From the onset of the COVID-19 pandemic, ESA and ESMA took parallel decisions to lower the notification threshold for net short positions, to deal with threats to market integrity and enable the orderly functioning of markets and financial stability.



The European Economic Area in a nutshell

The purpose of the EEA Agreement is to guarantee the free movement of goods, persons, services and capital across the territories of the signatory countries. These are known as 'the four freedoms'. The Agreement aims to remove barriers to trade and red tape, which enables individuals, consumers and businesses to make the most of the opportunities offered to them through direct access to a market comprising 30 countries and 450 million people.

30

COUNTRIES

The EEA Agreement unites The EEA EFTA States Iceland, Liechtenstein and Norway with the 27 EU Member States in an Internal Market governed by the same basic rules.

450

MILLION PEOPLE

The EEA Agreement adds the approximately 5.5 million people of Iceland, Liechtenstein and Norway to the EU market of some 446 million people.

4

FREEDOMS



Persons



Capital

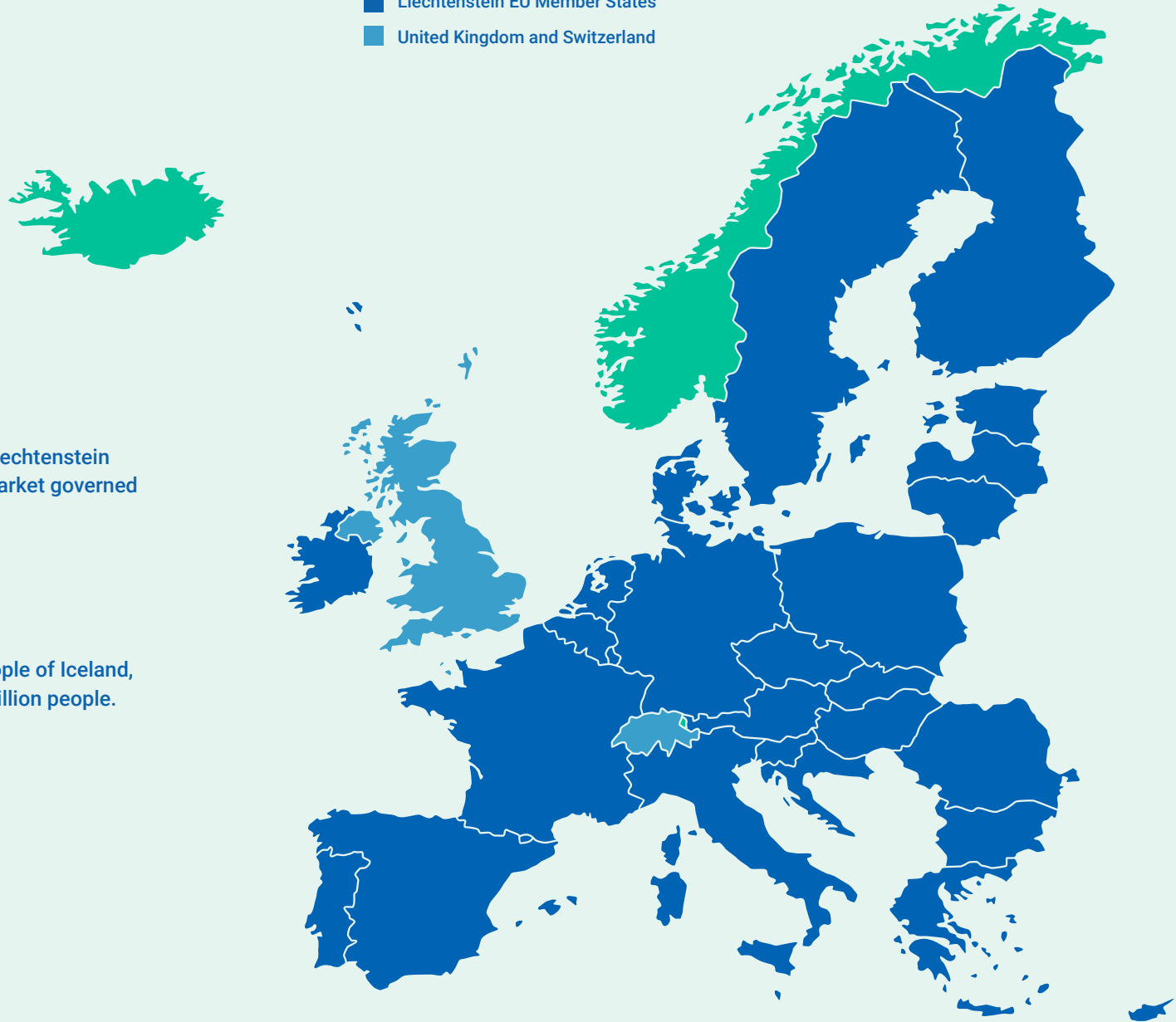


Goods



Services

- EEA EFTA States: Iceland, Norway and
- Liechtenstein EU Member States
- United Kingdom and Switzerland



Passenger safety



EEA law affects all modes of transport. Regulations covering transport and passenger rights make the EEA economy more competitive and consumer-driven.

Inspections

Among ESA's main responsibilities in the field of transport is to carry out inspections in the EEA EFTA States to monitor the application of EEA aviation and maritime security legislation. ESA ensures that passengers are able to travel securely by sea and by air.

DID YOU KNOW?

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

Know your rights



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

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

DID YOU KNOW?

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

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



Food safety and animal health and welfare



Keeping your food safe

EEA law sets high standards for food and feed safety, and for animal health and welfare. As an EEA citizen, you have the right to know how the food you consume is produced, processed, packaged, labelled and sold. Food safety legislation must be implemented quickly and in the same way everywhere in the EEA to ensure that the Internal Market for food is both safe and effective.

It is important and necessary for trust in the system that everyone operates under the same requirements. ESA is responsible for monitoring how Iceland and Norway implement EEA rules on food safety, feed safety and animal health and welfare, carrying out audits in both countries. Liechtenstein is subject to a different surveillance system for food safety.

The Rapid Alert System for Food and Feed

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

DID YOU KNOW?

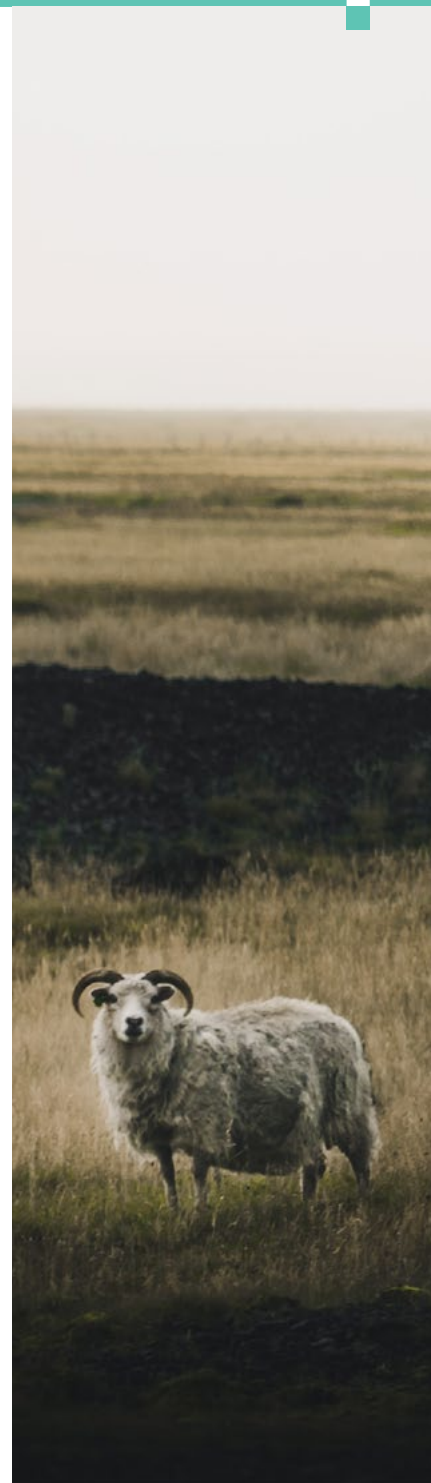
To ensure uniform surveillance across the EEA, ESA and the European Commission regularly participate in each other's audits. They also consult one another on surveillance policy issues and individual cases.

1999 – Food safety facilitates market access

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

New animal health law

In April 2021, ESA approved the continuation of existing disease-free statuses in Iceland and Norway. At the same time new legislation on transmissible animal diseases entered into force. Iceland and Norway may apply for approval of disease-free or non-vaccination status for additional diseases. The two states may also apply for approval of eradication programmes in accordance with the new animal health law. ESA will assess and approve any such applications, provided the relevant requirements for the disease in question are complied with.



State liability

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

Rights arising from EEA law

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

Failure to implement EEA Law

In 1994, Mr Karl Karlsson planned to start importing and distributing alcohol in Iceland following the entry into force of the EEA Agreement. However, Iceland's state monopoly rules prevented him from importing and distributing alcohol for almost two years, and, as a result, Mr Karlsson incurred significant losses.

DID YOU KNOW?

Alongside the 1997 Sveinbjörnsdóttir case, the Karlsson case is considered fundamental in establishing the principle of state liability in EEA law.

The EFTA Court in 2002 found that Iceland had breached EEA law and ruled that Mr Karlsson was entitled to financial compensation, provided the conditions for state liability were fulfilled. While the EEA Agreement does not contain explicit rules on the issue of state liability, the EFTA Court held that the principle of state liability was an integral part of the EEA legal order.



State aid in the EEA



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

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

Aid may, however, be granted without prior approval from ESA, for example through a block exemption system (GBER). If a measure is not covered by an exemption, the EEA EFTA States must notify the aid to ESA for approval. ESA has adopted decisions in cases concerning a wide variety of aid schemes, including regional aid, research and development, large infrastructure projects, and tax incentives on emissions-friendly vehicles.



Environmental aid: Carbon Capture and Storage

In 2020 ESA approved aid of up to EUR 2.1 billion for a Norwegian Full-Scale Carbon Capture and Storage (CCS) measure. This is the largest single state aid award ever approved by ESA. The project aims to establish infrastructure for the capture, transport and storage of carbon dioxide emissions, paving the way for future investments, and innovation of CCS technology to strengthen its role as a climate-change mitigation tool.



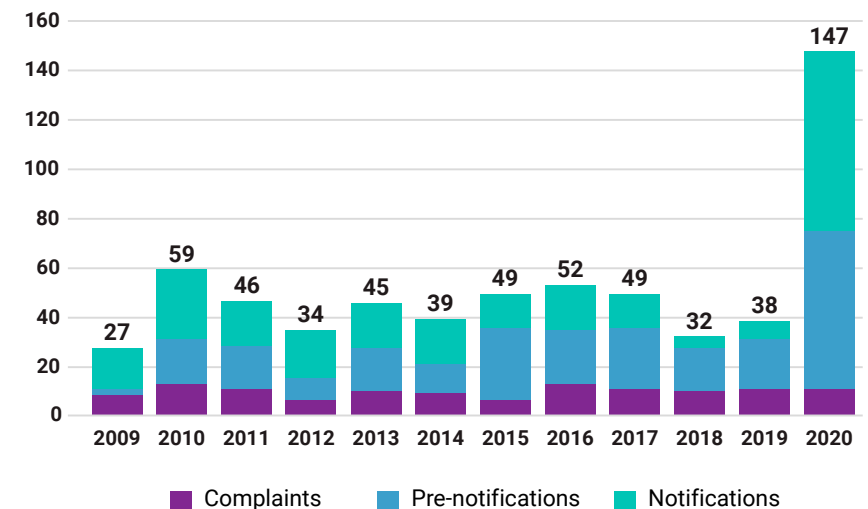
State aid and COVID-19

The effects of the COVID-19 pandemic on ESAs work were particularly noticeable in the field of state aid. In 2020, ESA dealt with a record number of cases and adopted a record number of state aid decisions. Of 68 state aid decisions taken by ESA in 2020, 52 were measures related to COVID-19.

Legal framework for granting COVID-19 aid

Article 61(2)(b) of the EEA Agreement allows the EEA EFTA States to compensate companies or sectors for damage caused directly by exceptional occurrences, such as those caused by the COVID-19 pandemic.

(Pre-)notifications and complaints received 2009–2020



Fair and healthy competition

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

DID YOU KNOW?

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

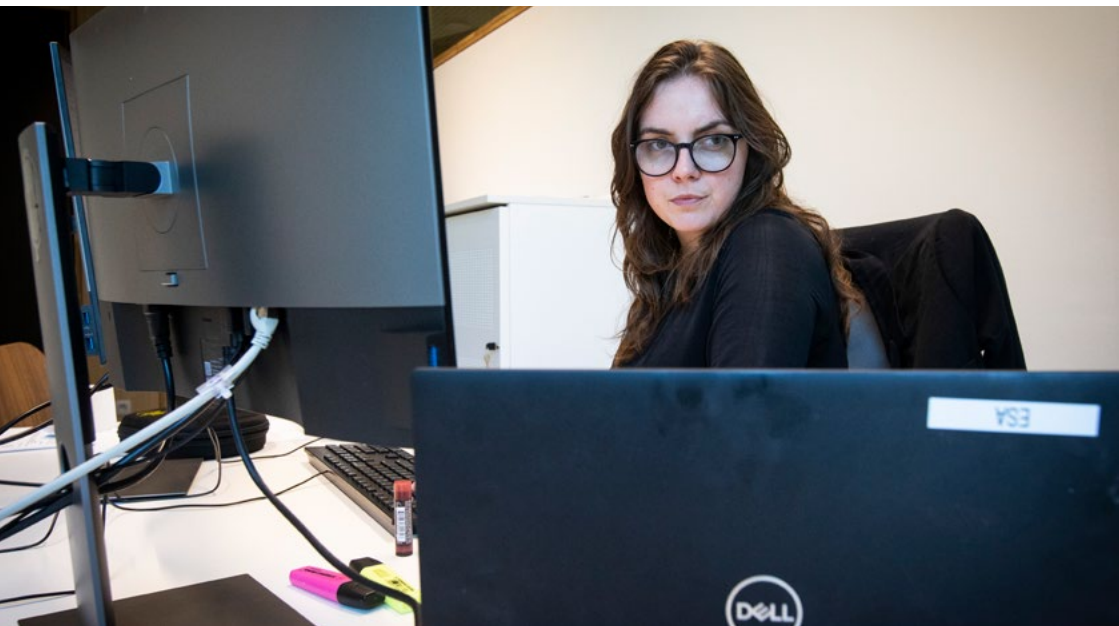
The benefits of competition law are widely felt: healthy competition pushes prices downward, and provides consumers with greater choice. Competition further encourages companies to be innovative, and to deliver high-quality products and services.

Protecting consumers

ESA's role is to ensure that companies operating in the EEA EFTA States abide by EEA competition rules. ESA enjoys wide powers of investigation to ensure that healthy competition benefits consumers.

ESA fines Telenor EUR 112m

In 2020, ESA fined Telenor, a Norwegian telecoms operator, EUR 112 million. This is the biggest fine ever issued by ESA. Following an in-depth investigation, ESA concluded the company had abused its market dominance through a pricing strategy. This resulted in rivals, who relied on Telenor's nationwide mobile network, making a loss when selling residential mobile broadband services on tablets and laptops in Norway. This amounted to an abuse of Telenor's dominant position on the wholesale market during a critical growth phase in mobile data, in breach of the EEA competition rules.



Outreach and transparency

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

ESA frequently publishes press releases and updates on its social-media channels to keep its audiences up to date on the latest developments. Minutes of the weekly College meetings are available online. In addition, ESA's website contains a complete online register of all state aid decisions taken.

Want to read more about ESA's work? Check our Annual Reports on eftasurv.int

Public access to documents

Want to access our documents? Anyone can ask to see documents from ESA by emailing registry@eftasurv.int

Documents are normally made publicly available upon request, though ESA may refuse disclosure in certain circumstances. Once a document has been disclosed, it is uploaded to ESA's website. Read more about public access to documents here: eftasurv.int/esa-at-a-glance/publications/public-access-to-documents



DID YOU KNOW?

You can visit us. ESA provides public presentations to visitors. Staff at ESA also attend external conferences and seminars.

Learn about the EEA

Moot Court

The EEA Law Moot Court provides a unique opportunity for law students in Iceland and Norway to deepen their understanding of EEA law and to gain practical advocacy experience in the English language. The annual Moot Court is held in Iceland and Norway on alternating years.

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

Moot Court in Iceland 2019



Work at ESA

Staff at ESA



Managers at ESA



Staff at ESA



Nationalities



ESA provides a great opportunity to work on some of the most interesting aspects of EEA law. ESA employs highly skilled and experienced professionals with a keen interest in European law and the EEA Agreement.

Case handlers work with a portfolio of cases extending over a variety of legal areas within the departments of ESA. Staff are recruited from across the EEA and are normally employed on fixed-term contracts for three years, usually renewed once. ESA also offers shorter temporary positions. Vacancies are regularly advertised on ESA's website and social media channels.

Interested?

Check out eftasurv.int/careers

Trainee programme

Each year, ESA invites trainees to join the team for 11 months. The paid traineeship provides young professionals and recent graduates from Iceland, Liechtenstein and Norway with an opportunity to work in the field of EEA law and communications. The trainees take part in the daily work of ESA's different departments. They assist case handlers, get hands-on experience of the functioning of the EEA Agreement and learn about the workings of the other European institutions.

eftasurv.int/careers/trainee-programme

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