

# Annual report 2023



**ESA** | EFTA  
Surveillance  
Authority

# 2023 ANNUAL REPORT

## TABLE OF CONTENTS

<b>LETTER FROM THE COLLEGE</b>	<b>4</b>
<b>CORPORATE INFORMATION</b>	
THIS IS ESA	<b>6</b>
HUMAN RESOURCES	<b>8</b>
BUDGET AND FINANCIAL PERFORMANCE	<b>8</b>
<b>THE INTERNAL MARKET</b>	
MONITORING THE INTERNAL MARKET	<b>10</b>
PROTECTING RIGHTS OF PEOPLE AND BUSINESS	<b>12</b>
ENSURING SAFE, SECURE AND SUSTAINABLE TRANSPORT	<b>14</b>
FOOD AND FEED SAFETY, ANIMAL HEALTH AND WELFARE	<b>16</b>
FROM CLIMATE CHANGE TO FINANCE	<b>18</b>
<b>COMPETITION AND STATE AID</b>	
STATE AID IN 2023	<b>21</b>
COMPETITION LAW IN 2023	<b>24</b>
<b>LEGAL AND EXECUTIVE AFFAIRS</b>	
LEGAL AND EXECUTIVE AFFAIRS IN 2023	<b>26</b>
ESA'S COURT CASES IN 2023	<b>27</b>
EXTERNAL RELATIONS AND OUTREACH	<b>28</b>
GLOSSARY OF TERMS	<b>30</b>

Photo credits: ESA, Pexels, Pixabay Shutterstock, Unsplash, Government of Liechtenstein.

Manuscript completed in June, 2024

Neither ESA nor any person acting on behalf of ESA is responsible for the use that might be made of the following information.

© EFTA Surveillance Authority 2024

Reproduction is authorised provided the source is acknowledged.

For any use or reproduction of photos or other material that is not under the ESA copyright, permission must be sought directly from the copyright holders.

## LETTER FROM THE COLLEGE

The EFTA Surveillance Authority (ESA) had another productive year in 2023. We maintained a steady course in enforcing the Agreement on the European Economic Area (EEA) in Iceland, Liechtenstein and Norway, aiming to ensure that people and businesses can fully benefit from their rights under the Agreement.

ESA's College initiated a closer and more structured dialogue with our sister organisation, the European Commission. Kicked off in November, the annual "Surveillance Policy Dialogue" brings together staff from ESA and the Commission to help ensure homogenous surveillance of the Internal Market throughout all 30 EEA States. In addition, ESA's College holds regular meetings with the Commission's Vice-President Maroš Šefčovič. Most of ESA's work relates to the monitoring of Internal Market rules. ESA continued to sharpen its focus in this regard, prioritising infringement issues with the greatest impact on people and businesses as well as systemic problems that may adversely affect the functioning of the EEA Agreement. We also continued to take steps to increase efficiency and effectiveness, which is always needed in a slim organisation. The substantive infringement proceedings initiated by ESA now have the shortest average duration among all 30 EEA States (see page 11).

Most of our cases are resolved through dialogue. In 2023, for example, ESA closed several cases following changes to national legislation or practice. This included measures by Liechtenstein to comply with public procurement rules; changes to Norway's taxi-market legislation; and measures by Iceland to implement EEA rules facilitating the freedom of movement for EEA workers.

A small minority of cases, however, need to be referred to the EFTA Court for a final decision as to whether the EEA Agreement is breached. In 2023, ESA brought four such cases to the EFTA Court, including a case against Norway for restricting residents' access to hospital treatment in other EEA States.

Beyond its core enforcement role, ESA has specific regulatory and direct supervisory tasks in sectors such as financial services, energy and environment. In August, for example, ESA approved Norway's methodology for the determination of the electricity capacity calculation regions (CCRs), following extensive cooperation with the EU Agency for the Cooperation of Energy Regulators (ACER).

With the end of the COVID-19 pandemic, the number of State aid notifications reaching ESA dropped sharply in 2023. Yet the overall volume of our decisions increased, as the focus instead shifted to larger, much more complex investigations linked to the green transition.



ESA's College from left to right: Vice-President Stefan Barriga, President Arne Røksund, and Vice-President Árni Páll Árnason.

For example, ESA approved aid for two Norwegian offshore wind projects, in line with the Temporary Crisis and Transition Framework for State aid, which was put in place following Russia's aggression against Ukraine.

In the field of competition law, we launched anti-trust proceedings against Elkjøp, the leading electronics retailer in Norway, following an inspection conducted in 2021. The decision does not mean an infringement has been found, but is part of ESA's work to uncover

potential anti-competitive behaviour that harms consumers' rights.

In times of global turmoil and war on the European continent, ESA has continued to fulfill its mission as a pillar of stability in the relations between the three EEA EFTA States and the EU. We hope that our readers will find this well reflected in the present report, which is presented with more statistics and in a more compact format.

## THIS IS ESA

**T**he EFTA Surveillance Authority (ESA) monitors compliance with the rules of the European Economic Area (EEA) in the EEA EFTA States, Iceland, Liechtenstein and Norway, enabling the three States to participate in the European Internal Market. The EEA was established by the Agreement on the European Economic Area in 1994 and joins the three EEA EFTA States with the 27 Member States of the European Union (EU) in a common market, known as the European Internal Market.

The purpose of the EEA Agreement is to guarantee the free movement of goods, persons, services, and capital in all EEA States. These are known as the four freedoms. Because of the EEA Agreement, EU law on the four freedoms, State aid and competition rules for undertakings is incorporated into the domestic law of the EEA EFTA States. The rules therefore apply throughout the entire EEA and ensure a common market with common rules. This removes barriers to trade and opens new opportunities for over 450 million Europeans, creating jobs and growth and adding to the international competitiveness of the EEA States.

As well as ensuring equal rights for all citizens and undertakings to participate in the Internal Market, and equal conditions of competition, the EEA Agreement provides for cooperation across the EEA in important areas such as research and development, education, social policy, the environment, consumer protection, tourism and culture. The success of the EEA Agreement depends on uniform implementation and application of common rules, providing for a system where the European Commission works with the EU Member States, while ESA works with the EEA EFTA States, to ensure compliance with EEA law.

### THE ROLE OF ESA

ESA ensures that Iceland, Liechtenstein and Norway respect their obligations under the EEA Agreement.

ESA operates independently of the EEA EFTA States and is based in Brussels. The role of ESA in ensuring compliance with EEA law is to protect the rights of individuals and undertakings, and to make sure that their rights are not violated by rules or practices of the EEA EFTA States or companies within those States.

ESA also enforces restrictions on State aid, assessing its compatibility with the functioning of the Internal Market, and can order repayment of unlawful state aid.

Likewise, ESA ensures that companies operating in the EEA EFTA States abide by EEA rules relating to competition. ESA can investigate possible infringements of EEA provisions, either by its own initiative or on the basis of complaints. It can impose fines on individual undertakings and assess mergers between undertakings where certain thresholds are met.

ESA can request a change in national rules or practices that are in breach of EEA law. If the EEA EFTA State concerned decides not to take appropriate action in response to ESA's request, ESA may initiate proceedings against that State before the EFTA Court. In monitoring and enforcing the EEA Agreement, ESA has powers that are similar to those of the European Commission, but they oversee the application of the same laws in different parts of the EEA. Due to their mirror-roles and the need to ensure uniform application of law, there is close contact and cooperation between the two institutions.

### HOW ESA IS ORGANISED

ESA is led by a College of three members. Although appointed by the EEA EFTA States, the College members



ESA staff at a retreat held in September 2023.

undertake their functions independently and free of political direction. The current College took office on 1 January 2022. It is led by President Arne Røksund, nominated by Norway, while College members are Árni Páll Árnason, nominated by Iceland and Stefan Barriga, nominated by Liechtenstein, who joined ESA as a College member in October 2021.

Under the leadership of the College, ESA employs experts in law, economics, veterinary science and other fields from all over Europe.

In 2023, ESA was divided into the following departments:

- Administration Department, led by Anders Ihr until 30 August, thereafter by Terje Hagen.
- Internal Market Directorate, led by Jónína S. Lárusdóttir.
- Competition and State Aid Directorate, led by Harald Evensen.
- Legal and Executive Affairs Department, led by Melpo-Menie Joséphidès.

### CORE VALUES

ESA's core values – Integrity, Openness and Competence – are key elements of our ongoing operations. ESA continued to ensure that they were embedded in all its internal and external activities in 2023.

**Integrity:** ESA operates in a fair, objective and independent manner. ESA's staff take ownership of their tasks and carry out these tasks in an environment of open discussion and high ethical standards.

**Openness:** ESA's communication and outreach activities are aimed at increasing knowledge about our work and tasks, as well as strengthening compliance with the EEA Agreement. ESA and its staff carry out their functions in a manner that is visible, approachable and transparent, while still showing due concern for information that needs to be protected.

**Competence:** ESA employs highly qualified staff, who have the skills and knowledge required for ESA to fulfil its role and to deal with tasks in an effective and efficient manner. ESA's staff develop their competence, and continuously improve their skills and knowledge, and aim for excellence. ESA is open to continuous improvement at the organisational and individual levels.

## HUMAN RESOURCES

ESA employs highly competent and motivated multidisciplinary staff from across the EEA EFTA States and the EU Member States. We offer a collaborative and flexible working environment, with excellent opportunities for professional development.

At the end of 2023, ESA employed 88 staff members, representing 19 nationalities, of which 53 were EEA EFTA nationals. Of these staff members, 52% were female and 48% male. For staff in management positions, there was an equal split between 50% female and 50% male.

The EEA EFTA States have established staff regulations providing for employment by ESA on a temporary or fixed-term basis, which means that opportunities arise frequently for qualified candidates. Each year, ESA also engages several Junior Professionals from the EEA EFTA States for an 11-month programme. This is an opportunity to gain experience in an international setting and make a vital contribution to ESA's work.

### STAFF AT ESA



## BUDGET AND FINANCIAL PERFORMANCE

ESA's 2023 budget amounted to EUR 20.8 million, an increase of 9.5% compared to 2022. The year ended with a deficit of EUR 271,000 (2021: deficit EUR 84,000). ESA's activities and budget are primarily financed by contributions from Norway (89%), Iceland (9%) and Liechtenstein (2%). About 80% of ESA's expenditure represents personnel

and turnover costs, including salaries, allowances, and benefits such as recruitment expenses.

The EUR 1.3 million increase in expenditure compared to 2022 was driven by the indexation of staff salaries and benefits, coupled with an increased use of consultants in response to capacity and expertise constraints. Inflation adjustments of other operational expenditure also affected costs, most notably

concerning office lease and office-operation expenses. Travel and costs associated with outreach remained relatively stable, compared to the previous year. Capacity issues remain a key issue for ESA, resulting in the continued use of additional temporary staff.

Given the unplanned nature of the deficit, this is to be covered by ESA's Reserve Fund. The Reserve Fund is a tool which ESA may use to cover for expenditure made under exceptional and unbudgeted circumstances.

ESA's annual financial statements are prepared in accordance with the International Public Sector Accounting Standards (IPSAS) and made available on our website once the required decisions are taken by

the ESA/Court Committee (ECC). ESA's 2022 financial statement was approved by the ECC on 7 December 2023.

The EFTA Board of Auditors (EBOA) is the auditing authority of ESA. It is a permanent committee consisting of auditors representing the supreme national audit bodies of the EFTA States. EBOA, with support from external auditors, performs annual audits of the financial statements of the EFTA institutions. When auditing ESA's activities, EBOA meets "at three" with audit representatives from Iceland, Liechtenstein and Norway, and reports to the ECC.

Amounts in thousand EUR	Actuals 2023	Budget 2023	Actuals 2022	Budget 2022
EEA EFTA States' contributions				
- Current year	20 679	20 679	18 871	18 871
- Multi-year contributions for IT investments*	20	20	20	20
<b>Total EEA EFTA States' contributions</b>	<b>20 699</b>	<b>20 699</b>	<b>18 891</b>	<b>18 891</b>
Financial income	19	-	35	-
Other income**	234	150	894	150
<b>Total income</b>	<b>20 952</b>	<b>20 849</b>	<b>19 820</b>	<b>19 041</b>
Salaries, benefits, allowances and turnover costs	16 876	16 297	15 993	15 012
Travel, training and representation expenses	824	936	795	828
Office accommodation expenses***	1 568	1 589	1 455	1 302
Supplies and services expenditure	1 934	1 991	1 628	1 865
Financial expenses	21	36	33	34
<b>Total expenditure</b>	<b>21 223</b>	<b>20 849</b>	<b>19 904</b>	<b>19 041</b>
<b>Net (deficit)/surplus for the year</b>	<b>(271)</b>		<b>(84)</b>	<b>-</b>

#### Notes:

\* Multi-year contributions for IT investments represents income from deferred contributions received in 2018 for new IT projects.

\*\* Included one-off grants in the amount of EUR 696,000 for the year 2022. No additional grants received during 2023.

\*\*\* Includes EUR 324,000 (2022: EUR 309,000) interest from a financial lease regarding the office building which has been classified as office accommodation expenses to align with the budgeted expense category

# MONITORING THE INTERNAL MARKET

The European Internal Market refers to the single market within the EU's territory, plus Iceland, Liechtenstein and Norway. The internal market encompasses an area without internal frontiers or regulatory obstacles in which the free movement of goods, persons, services and capital is ensured. Known as the "four freedoms", these provisions are supplemented by a number of other related areas, including social security, labour law, food safety, transport, public procurement, environment and energy. Such provisions are essential for prosperity, growth, competition and trade. They improve efficiency, raise quality, and being part of a larger market can help reduce prices.

To ensure that every citizen and undertaking can reap the full benefits of the Internal Market, ESA continually monitors the implementation and application

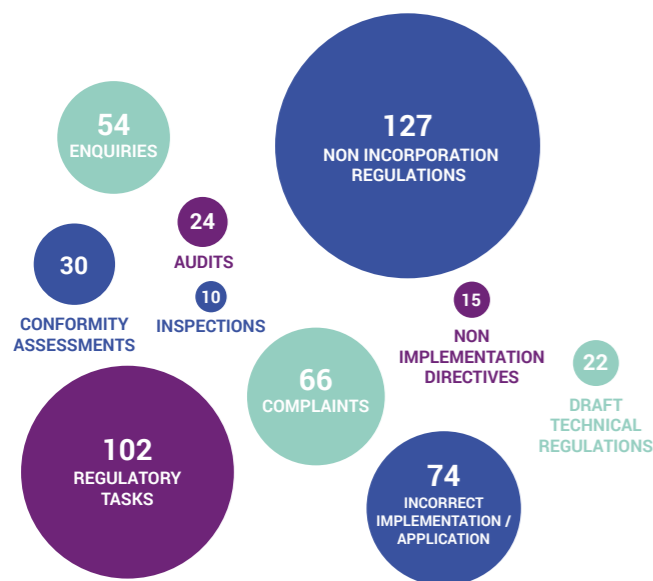
of EEA law in Iceland, Liechtenstein and Norway. ESA investigates whether the EEA EFTA States have correctly implemented legal acts into national legislation, and that rules incorporated into EEA Agreement are being applied correctly.

A key part of ESA's work involves dialogue with the EEA EFTA States aimed at achieving compliance of EEA rules. ESA can also pursue legal action against the States (infringement proceedings), to ensure the correct application and implementation of the Internal Market rules.

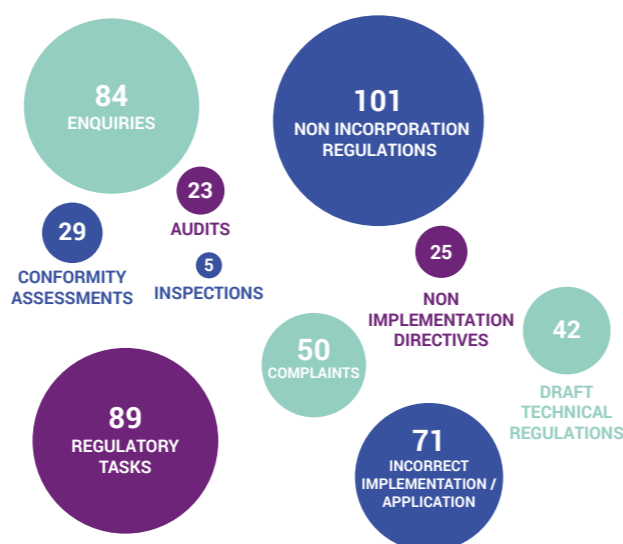
Central to ESA's work in 2023 was a continued sharpening of its focus to improve efficiency and effectiveness, following its decision in December 2022 to close 60 cases. This was carried out in an effort to better concentrate its resources on cases with the biggest impact on the functioning of the EEA Agreement.

## OPEN CASES IN THE INTERNAL MARKET DIRECTORATE

### 533 CASES IN IMA JANUARY 2024

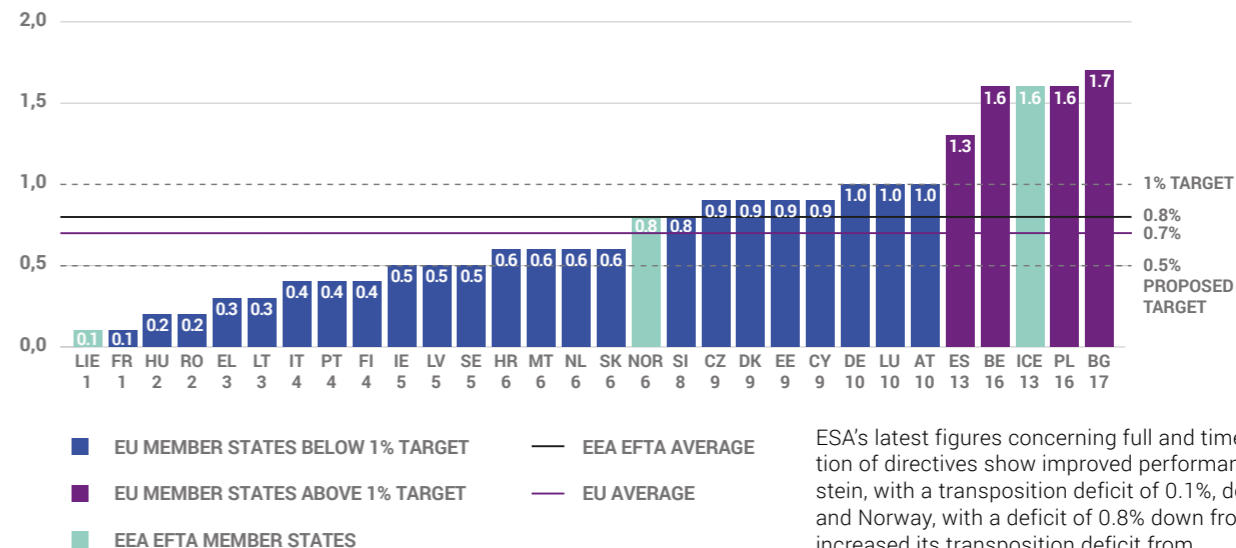


### 519 CASES IN IMA JANUARY 2023



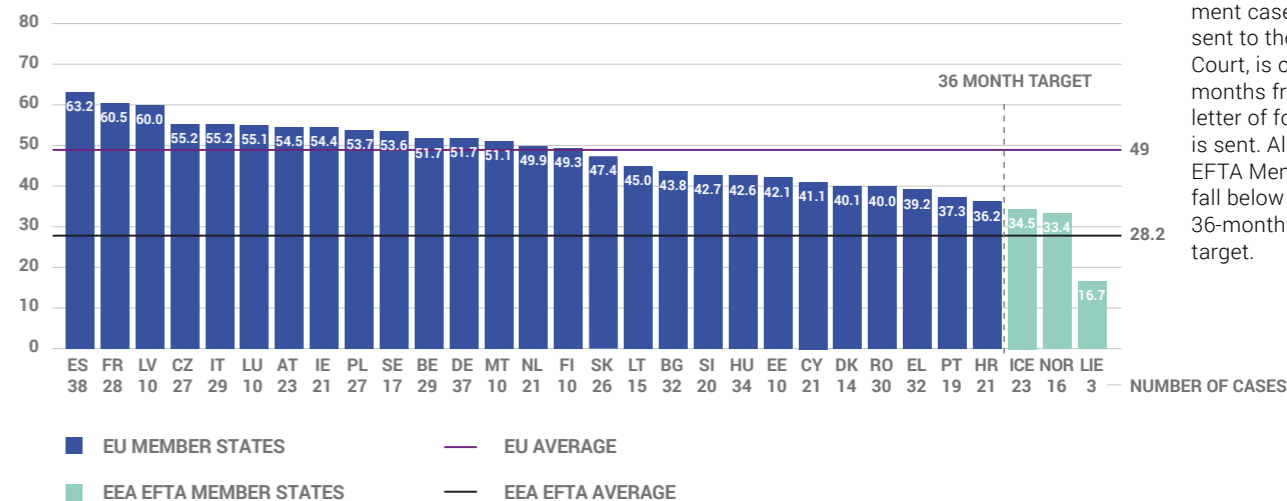
At the end of 2023 there were 533 open cases registered with ESA's Internal Market Directorate. Of these open cases, 142 relate to non-transposition of Directives and Regulations, whereas 170 relate to complaints, incorrect implementation / application and conformity assessments.

## COMPARISON OF EEA EFTA STATES' AND EU STATES' TRANSPOSITION DEFICIT



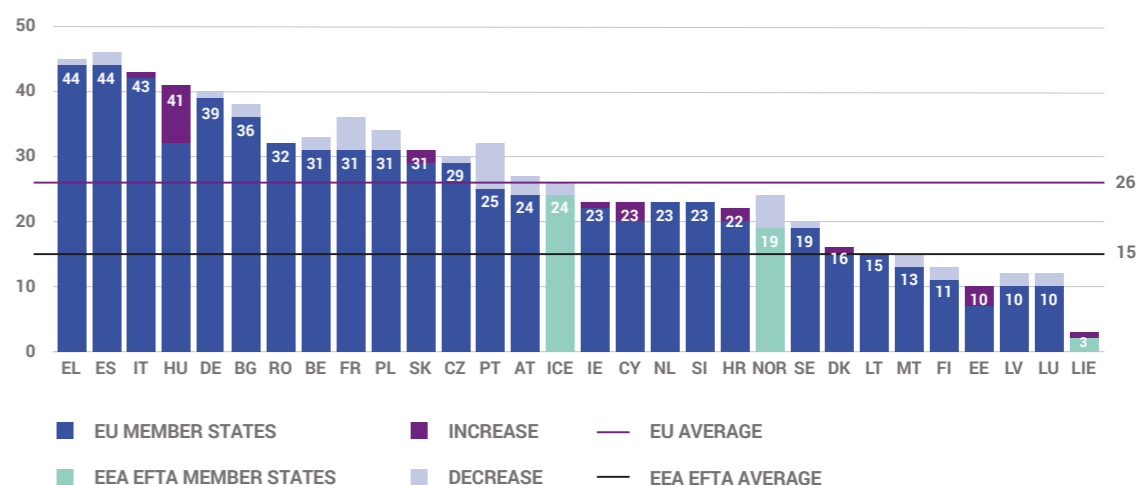
ESA's latest figures concerning full and timely implementation of directives show improved performances by Liechtenstein, with a transposition deficit of 0.1%, down from 0.4%, and Norway, with a deficit of 0.8% down from 1.5%. Iceland increased its transposition deficit from

## COMPARISON OF EEA EFTA STATES AND EU STATES' AVERAGE DURATION OF PENDING INFRINGEMENT CASES NOT YET SENT TO COURT



The average duration of pending infringement cases not yet sent to the EFTA Court, is calculated in months from when the letter of formal notice is sent. All three EEA EFTA Member States fall below the EU's 36-month indicative target.

## COMPARISON OF EEA EFTA STATES' AND EU STATES' INFRINGEMENT CASES DUE TO LACK OF CONFORMITY WITH OR INCORRECT APPLICATION OF INTERNAL MARKET RULES ON 1 DECEMBER 2023



Pending infringement cases concerning incorrect implementation or application of Internal Market rules.



## PROTECTING RIGHTS OF PEOPLE AND BUSINESS

MAGEN is the unit in ESA's Internal Market Affairs (IMA) Directorate that deals with cases relating to whether the 'four freedoms' of the internal market have been infringed in one way or other. In 2023, several infringement procedures for breaches of the internal market rules were pursued, being either at an early stage, or closer to being referred to the EFTA Court.

ESA has a range of tools that it deploys in its work to monitor the EEA Agreement, delivering on its mandate to ensure that EEA EFTA States fulfil their obligations. So-called conformity assessments are used by ESA to see how EEA legal acts are implemented into national rules, conducting a systematic comparison of these processes.

In 2023, ESA requested that [Norway, Iceland](#) and [Liechtenstein](#) correctly implement EEA rules on Points of Single Contact (PSCs). These are digital government portals that make it easier for businesses and professional service providers from one EEA country to offer their services in another. Such portals have a range of benefits for service providers, including information on licences, notifications or permits needed to start a business; requirements for offering services on a temporary basis; recognition of professional

qualifications and regulated professions; labour and social laws; and rules for public procurement. In a nutshell PSCs help reduce bureaucracy and enhance competition, leading to better services and better prices for consumers.

Following a conformity assessment, ESA [opened infringement procedures](#) against Iceland, Liechtenstein and Norway for not having sufficiently implemented the Enforcement Directive on Posting of Workers. The directive's purpose is to ensure better application and enforcement practices of EEA rules governing the posting of workers, when a worker is employed in one EEA State but sent to work in another. In line with similar action taken by the European Commission, ESA aims to ensure that employers can send workers to other EEA States without unnecessary red tape, while upholding workers' rights.

Another important aspect of ESA's infringement work is assessing 'complaints received from citizens and businesses that allege that they have been adversely affected by the incorrect implementation or application of EEA rules.

Following the receipt of a complaint, ESA in 2023 initiated an infringement procedure against Iceland concerning its rules on the collection of blood from

pregnant mares for the production of the Pregnant Mare Serum Gonadotropin hormone. In its [letter of formal notice to Iceland](#), ESA requested that the country to correctly apply EEA rules on the protection of animals used for scientific purposes as regards the blood collection from pregnant mares.

Another [infringement procedure was launched against Norway](#) over the introduction of national measures that remove the possibility for companies to use temporary agency workers when the work is of a temporary nature, such as for seasonal work or production peaks. The measures also prohibit the use of temporary agency workers in the construction sector in the counties of Oslo, Viken and former Vestfold. In its letter of formal notice to Norway, ESA criticised Norway for introducing unjustified and disproportionate restrictions on the use of temporary agency workers.

ESA moved forward an [ongoing infringement procedure against Iceland](#), concluding that by refusing to transfer pension rights accrued in Iceland to the pension scheme of the EU institutions, Iceland has failed to fulfil its EEA obligations deriving from the European Aviation Safety Agency (EASA) Regulation, and to ensure the free movement of workers. Iceland's refusal to make the necessary changes means that individuals concerned are placed at a disadvantage compared to their colleagues from other EEA States. This is likely to hinder or make less attractive the exercise of free movement as guaranteed by the EEA Agreement.

Many of ESA's investigations are so-called own-initiative cases being launched following the suspicion of incorrect implementation or application of EEA law.

For instance, ESA in 2019 opened an own-initiative case to explore if Norway's national legislation and ensuing administrative practices concerning the retention of sickness benefits in cash when receiving medical treatment in another EEA State complied with EEA law.

[ESA decided to close the case](#) following the adoption by Norway of legislative changes in November 2022 that established that the right to retain sickness benefits

abroad would no longer need prior travel authorisation from the Norwegian Labour and Welfare Administration (NAV).

### COURT REFERRALS

The large majority of infringement proceedings launched by ESA are resolved through dialogue with the EEA EFTA States. On some occasions this is not always possible, in which case ESA will refer the case to the EFTA Court for a final interpretation of the EEA rules on a given issue.

In 2023, ESA referred four infringement cases, all concerning Norway, to the EFTA Court. Norway was referred the EFTA Court over its incorrect implementation and application of EEA rules in the financial sector. The referrals came after long-standing dialogue and pre-litigation procedures. Current national legislation requires a Norwegian financial undertaking to notify the Norwegian Financial Supervisory Authority ("Finanstilsynet") when establishing a subsidiary in another EEA State, which in ESA's view is contrary to EEA law.

Following lengthy dialogue over Norwegian national legislation and practice that restricts individuals' rights to seek hospital treatment in other EEA States, ESA in July [referred Norway to the EFTA Court](#). EEA rules allow patients to get care in another EEA State if they cannot receive the treatment they are entitled to in their country in good time. In Norway, however, many applications for treatment abroad are considered under domestic rules with stricter conditions.

Norway has for several years failed to recognise that EEA national children can have an independent right of residence under EEA law and be accompanied by their primary carers. For that reason, in December, ESA decided to escalate the [relevant](#) ongoing infringement case by [referring it to the EFTA Court](#).

ESA also [referred Norway to the EFTA Court](#) for not fully implementing EEA rules on supplementary pension rights. The Directive on supplementary pension rights aims to promote the mobility of workers in the EEA by safeguarding their rights related to supplementary pensions when moving between EEA States.

An overview of the recent developments in internal market affairs vis-à-vis each EEA EFTA States, including infringement procedures, can be found on [ESA's website](#).



The Old Harbour in Reykjavik.

## ENSURING SAFE, SECURE AND SUSTAINABLE TRANSPORT

**F**undamental to ensuring a functional and competitive Internal Market is the safe, secure, and sustainable transport of goods, services and people. The EEA Agreement covers all modes of transport, and ESA monitors the implementation of EEA law covering aviation, maritime, rail and road transport. Accessible and secure connectivity is a priority for the EEA States, both in the EU and EFTA countries. ESA also ensures that national rules in Iceland, Liechtenstein and Norway related to accessibility and electronic communications, the information society, postal and audiovisual services comply with EEA legislation. ESA ensures compliance with aviation and maritime

security rules by conducting on-site inspections in the EEA EFTA States. In 2023, ESA carried out three maritime security inspections (two in Norway and one in Iceland), and two aviation security inspections (one in Iceland, and one in Norway).

ESA opened 13 new cases in the areas of transport and connectivity. This included five complaint cases (rail services, maritime transport, road transport), three conformity assessments of new legislation (postal services), and five own-initiative cases concerning the incorrect implementation or application of EEA law (electronic services, rail services, aviation safety, maritime safety).

### AIR-GROUND COMMUNICATION SERVICES

In July, the EFTA Court ([Case E-15/22](#)) ruled that Norway had failed to comply with its obligations under Commission Regulation (EC) No 29/2009 on data-link services for the Single European Sky.

The judgment came after ESA had referred Norway to the EFTA Court on the basis of a failure to ensure that air-ground communication services were made available to operators for aircraft flying within the airspace under their responsibility. The deadline to comply with these obligations had expired in 2018. Norway had since 2020 acknowledged its failure to implement the relevant rules, but argued that technical challenges, unreasonable costs, and safety concerns prevented implementing.

The Court found in ESA's favour and did not accept any of the circumstances invoked by Norway as a justification for its failure to apply EEA rules in a timely and correct manner. ESA will monitor steps taken by Norway following the Court's judgment.

### TAXI SERVICES

In July ESA [closed](#) a long-standing case concerning access to the Norwegian taxi-services market. The case followed a complaint against Norway received in 2013, and was the subject of extensive correspondence, including the opening of infringement proceedings against Norway for failing to fulfil its obligations under Article 31(1) of the EEA Agreement on the right of establishment. ESA in February 2017 delivered a [reasoned opinion](#) to Norway, which led to the amendment of the relevant legislation in Norway.

The amendments introduced stipulate that the licensing authorities can no longer set numeric limitations on operating licences for taxis, or grant licences based on discriminatory conditions, such as previous experience or seniority gained as a driver. Taxi-licence holders were given the choice of providing their services on their own account, via dispatch centrals or via other intermediaries. Since 2020, Norway has also introduced additional amendments to relevant secondary legislation, including competency requirements for taxi-licence holders.

Following an examination of the measures taken

by Norway to comply with the reasoned opinion, ESA decided to close the case. It will continue to monitor future developments in the Norwegian taxi services market.

### PASSENGER TRANSPORT

In May ESA issued a [reasoned opinion](#) to Iceland for failing to comply with EEA rules on the freedom to provide services to passengers by bus and coach. According to Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services, EEA carriers are free to provide occasional passenger-transport in EEA States other than the one in which they are established. Iceland, however, has introduced limitations to the exercise of this right by non-Icelandic transport providers, which in ESA's view are in conflict with the EEA rules.

The European Commission [in 2023 referred Denmark to the EU Court of Justice](#) concerning similar restrictions. ESA is participating as an intervener in that court case.

### COOPERATION WITH EU AGENCIES AND REGULATORY BODIES

ESA works closely with the EU transport agencies on issues related to aviation ([EASA - European Union Aviation Safety Agency](#)), maritime transport ([EMSA – the European Union Aviation Safety Agency](#)) and railways ([ERA – the European Union Agency for Railways](#)). These agencies provide ESA with expert advice, either periodically in accordance with their work programmes, on a case-by-case basis in accordance with the EEA legal framework or following a specific ESA request. In the maritime transport sector, EMSA assists ESA with security inspections and conducts visits to verify the implementation of EEA legislation concerning maritime safety.

In the field of telecommunications, ESA cooperates with the [Body of European Regulators for Electronic Communications \(BEREC\)](#), and participates in the work of the [European Regulators Group for Postal Services \(ERGP\)](#) and the [European Regulators Group for Audiovisual Media Services \(ERGA\)](#).





## FOOD AND FEED SAFETY, ANIMAL HEALTH AND WELFARE

**E**SA monitors the implementation in Iceland and Norway of EEA legislation related to food and feed safety, and animal health and welfare. Legislation in this area is dynamic and often marked by rapid implementation due to the need to ensure an effective and immediate impact.

### AUDITS

A key part of ESA's work in the food and veterinary area is to conduct audits. Through these, ESA verifies the implementation of official controls and related enforcement activities. Audits comprise both documentary reviews, which include the assessment of

control plans, risk-based planning systems, and control procedures, but also reviews and follow-up of controls, and on-site verification.

In 2023, Norway was requested to step up its preparedness for infectious avian diseases. This followed an audit to verify compliance with EEA rules governing animal health, control of major active avian diseases (including avian flu and Newcastle disease) and preparedness to cope with multiple outbreaks. ESA concluded that the country's contingency plans did not fully describe all actions required to provide a rapid response to a disease outbreak. This resulted in delays in initiating certain disease-control measures.

ESA completed general review audits to both

Iceland and Norway in 2023. General review audits are conducted every three to four years to verify that the States have implemented satisfactory corrective actions to address ESA's previous recommendations.

In its assessment of Norway, ESA concluded that Norway had made limited progress in addressing recommendations from nine audits carried out between April 2018 and November 2022. ESA found that Norway had made progress addressing recommendations in four out of the nine audits, but had failed to meet the deadlines indicated for certain corrective actions set out in the remaining audits.

Iceland, meanwhile, made progress in most areas, but controls of animal by-products remained unsatisfactory. ESA found that progress had been made in six out of nine audits carried out between January 2018 and September 2022. Iceland had not addressed the shortcomings in official controls of animal by-products not intended for human consumption.

Finally, following a control visit to verify that it complied with the minimum requirements, ESA concluded that Norway could continue the process and designate a new border-control post in Haugesund.

### DESK-BASED CONTROLS

Desk-based analyses are controls based on documentary reviews only. Certain desk-based analyses are specifically required by EEA legislation. ESA also uses desk-based analyses to assess the current situation in certain areas. Such controls are of a fact-finding character and used as part of ESA's prioritisation of areas to be further controlled. Once finalised, summary reports of the desk-based analyses are shared with the relevant competent authorities.

ESA carried out desk-based analyses to verify that border-control posts re-designated by the Icelandic and Norwegian national competent authorities under Regulation (EU) 2017/625 concerning the need for official controls to comply with the applicable EEA legislation. A particular focus is placed on ensuring that minimum requirements for border control posts are upheld, including for inspection centres.

Last year, ESA also conducted desk-based analyses of all recommendations issued between 2010 and 2022

to identify any pattern or weak points of the control systems in Iceland and Norway. Based on the outcome of the analyses ESA invited the national authorities in the two States to a workshop to discuss methodologies to ensure that recommendations are addressed horizontally across all sectors. This provided an opportunity to outline ESA's audit procedures, focusing on how Iceland and Norway can effectively address recommendations through corrective actions and what evidence is required to demonstrate that suitable actions have been taken.

ESA carried out documentary reviews of the residue monitoring plans in Iceland and Norway as well as their annual reports on organic production.

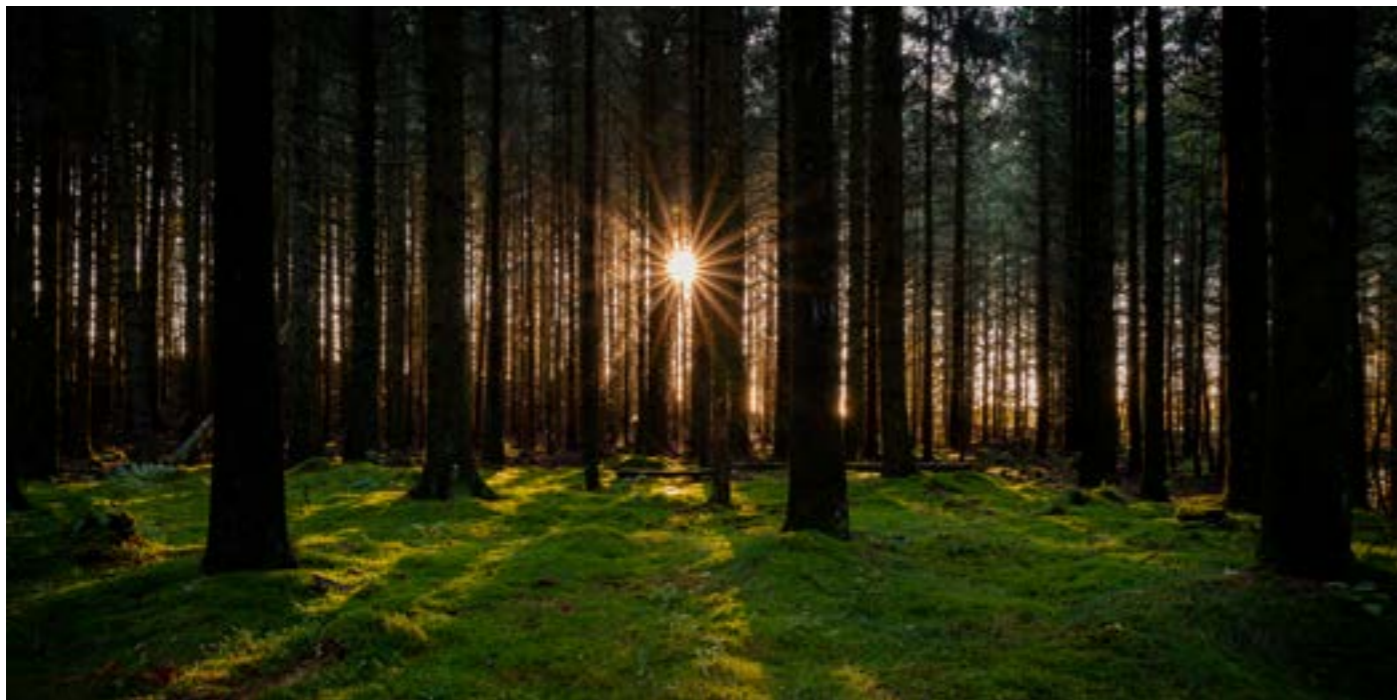
### FACT-FINDING STUDIES

Fact-finding studies do not focus on compliance with EEA rules, but aim to gather information on national arrangements in a specific area or sector. For instance, a fact-finding study can set out to identify best practices in areas not covered by EEA legislation. In 2023, ESA carried out a fact-finding study to gather information on national arrangements in Norway concerning the welfare for fish on farms, during their transport and at the time of killing. The study was conducted in cooperation with the European Commission and the Norwegian authorities.

### IMPORT CONTROLS

ESA closed an own-initiative case after Norway took the necessary steps to comply with EEA rules on veterinary import controls. Under EEA law, Norway shares a common border with the other 29 EEA States for imports of food from third countries. Veterinary checks on food of animal origin arriving from third countries are an important part of the system to safeguard public and animal health in the EEA.

Norway enacted legislative changes after ESA had opened formal infringement proceedings in 2021. These changes enable the Norwegian Customs Authorities to verify that food of animal origin from third countries has undergone the necessary veterinary checks by the Norwegian Food Safety Authority before it enters Norway and the Internal Market.



## FROM CLIMATE CHANGE TO FINANCE

**D**uring 2023, ESA continued to strengthen its compliance work related to climate change, energy, the environment, public procurement and financial markets. This work is being conducted by the 'ENFIP' unit.

In addition to its enforcement activities, ESA's ENFIP unit saw an increase in its regulatory tasks. Such tasks include reports on the implementation of the Carbon Capture and Storage (CSS) Directive in the EEA EFTA States, and on emission reductions. Last year ESA also took its first decision related to the internal energy market. This concerned the approval of the methodology for the determination of the electricity capacity calculation regions (CCRs) for Norway.

To perform these tasks, the unit further strengthened its cooperation with the EU and the EEA EFTA institutions, and in particular with the EU agencies.

### CLIMATE CHANGE

ESA is responsible for monitoring that Iceland and Norway meet their climate targets as part of a Europe-wide effort to significantly reduce greenhouse gas emissions by 2030.

In October ESA issued its third [Climate Progress Report](#). The report takes stock of the progress made by Iceland and Norway in reducing greenhouse gas emissions in line with their commitments under the Effort-Sharing Regulation ((EU) 2018/842) and the Land Use, Land-Use Change and Forestry Regulation ((EU) 2018/841), also known as LULUCF.

In the framework of the LULUCF Regulation, ESA has undertaken an assessment of the long-term strategies of Iceland and Norway for the land use and forestry sectors.

The EEA EFTA States also participate in the European Emissions Trading System (Directive 2003/87/EC),

an EEA-wide carbon market to reduce greenhouse gas emissions in Europe. In December, changes to the ETS, including more ambitious emission cuts and the extension to new sectors, took effect in the EEA Agreement. ESA collaborates closely with the European Commission and the EEA EFTA States in undertaking its regulatory tasks under the ETS.

### ENVIRONMENT

ESA in 2023 followed up on the implementation of EEA environmental rules, in cooperation with the European Commission and the European Environment Agency. ESA continued to check environmental data to monitor the EEA EFTA States' compliance with relevant EEA law targets, including air pollution and waste reduction targets.

As a result of its monitoring in the field of air, ESA issued a [letter of formal notice](#) to Norway for exceeding its ammonia emission targets in breach of the National Emission Ceilings Directive (2001/81/EC).

### CARBON CAPTURE AND STORAGE

ESA in November published its first report on the implementation of the CCS Directive in Iceland, Norway and Liechtenstein. The report shows an increasing number of initiatives in the field of CCS in Iceland and Norway.

ESA received copies of two CO<sub>2</sub>-storage applications (one from Iceland and one from Norway) and started preparing for providing opinions on draft CO<sub>2</sub> storage permits. These are expected to be finalised in 2024. ESA cooperates closely in this work with the national competent authorities in Iceland and Norway, and with the European Commission.

### ENERGY

In April 2023 ESA adopted its first decision - [No. 065/23/COL](#) - instead of the European Agency for the Cooperation of Energy Regulators (ACER), concerning the inclusion of Norway in the relevant electricity capacity calculation regions (CCRs). The decision was a milestone for Norway's participation in the Nordic and Hansa CCRs, and formalised existing practice and the

role of Statnett, the Norwegian system operator, in the CCR decision-making process.

ESA also began work in 2023 on several other energy-related decisions for Norway instead of ACER, and continued its follow-up to the implementation of the third energy package in the EEA EFTA States. These are workstreams on which ESA works closely with ACER and national energy regulatory authorities, in accordance with the two-pillar structure of the EEA Agreement.

### PUBLIC PROCUREMENT

Compliance with EEA public procurement law is essential to ensure that the free movement rules and general principles of EEA law are given practical effect when the public sector buys goods, works and services. In 2023, ESA continued to ensure that lawful exceptions to the requirement for open competition in public procurement were not applied incorrectly. For example, ESA sent a supplementary letter of formal notice to Norway in relation to a practice of municipalities relying on the existence of "exclusive rights" to award contracts for certain waste management services without competition.

The letter also commented on limits to other rules and concepts which can allow for arrangements to be entered into directly. In ESA's view, the conditions of the relevant exemption were not met and so the contracts should have been open to the market.

### FINANCIAL SERVICES

ESA continued its constructive dialogues with the EEA EFTA States concerning transposition in the fields of banking, payments and capital markets. In parallel ESA strengthened its collaboration with the European Commission on enforcement policy within the Single Market for financial services.

Two separate reasoned opinions were sent to Norway in July concerning the incorrect implementation and application of EEA acts regarding the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector.

To ensure uniform surveillance and application of rules in the Single Market for financial services, ESA continued its close cooperation with the three European supervisory authorities – [the European Banking Authority \(EBA\)](#), [the European Insurance and Occupational Pensions Authority \(EIOPA\)](#) and [European Securities and Markets Authority \(ESMA\)](#) – at both the technical and senior-management levels.

A central pillar of this cooperation has been an increased participation for ESA in internal workstreams of the supervisory authorities. This is important both with a view to increase awareness of the EEA Agreement, and to prepare for upcoming legislative changes and relevant new supervisory tasks.

ESA closely monitors the application of the EEA rules on anti-money laundering and countering terrorist financing to ensure the integrity and proper functioning of financial markets. ESA participated in the work of EBA's relevant standing committee, including its work to follow up and prepare for AML reviews in the EEA EFTA States.

A bird's-eye view of Liechtenstein's capital Vaduz.



Increasing offshore wind capacity is a priority for the Norwegian authorities.



## STATE AID THE YEAR IN REVIEW

In the field of state aid, 2023 was marked by a shift away from the crisis measures that had dominated ESA's work in the previous three years. Indeed, only one of ESA's State aid decisions concerned crisis support. Instead other important issues, such as the green transition, took priority.

In addition to prioritising green measures, ESA was also able to move forward several complaints cases, many of which had been delayed due to the exceptional case-load that arose during the COVID-19 pandemic and the energy crisis following Russia's aggression against Ukraine.

While the number of State aid decisions adopted in 2023 fell to 16, the cases ESA dealt with were larger and more complex. The complexity of the cases dealt with and the need for increased reasoning to ensure the decisions meet the standards set by the EFTA Court

is reflected in the growing length of ESA's state aid decisions.

### OFFSHORE WIND PROJECTS

Offshore wind deployment is a priority for the Norwegian authorities. Increased offshore wind generation is seen as an important part of the effort to reduce greenhouse gas emissions and mitigate the impact of climate change. ESA in 2023 handled two notifications concerning schemes supporting investments in offshore wind projects in Norway.

In August, ESA [approved](#) a NOK 4 billion (EUR 340 million) scheme aimed at developing renewable energy production by supporting investments in floating offshore wind ('FOW') – a promising technology, which is not yet commercially viable and is therefore in need of public support. Aid under the scheme will be awarded

following a competitive bidding process and will be granted no later than 31 December 2025.

In December, ESA [approved](#) up to NOK 23 billion (EUR 2 billion) in State aid for the operation of an offshore wind farm to be established as part of Phase I of Sørlige Nordsjø II (Southern North Sea II), a wind field on the Norwegian continental shelf. The aid will take the form of a two-way contract for difference in which the State pays the difference if the market price is lower than the strike price offered by the beneficiary, and the State receives the difference if the market price is higher than this strike price. The beneficiary and aid intensity is to be determined based on a competitive procedure. Both of these green transition measures were assessed and approved in accordance with the European Commission's [Temporary Crisis and Transition Framework](#).

**FORMAL INVESTIGATIONS**

Three formal investigations were initiated by ESA in 2023. In March, ESA [opened](#) an investigation concerning a capital injection by the Icelandic authorities to Farice for the layout of a third submarine cable between Iceland and Europe. The opening follows the annulment by the EFTA Court of ESA's Decision 023/21/COL approving the measure. In May, ESA [opened](#) an investigation into unlawful alleged State aid granted by the Norwegian authorities to the Vy Group and its subsidiary. In

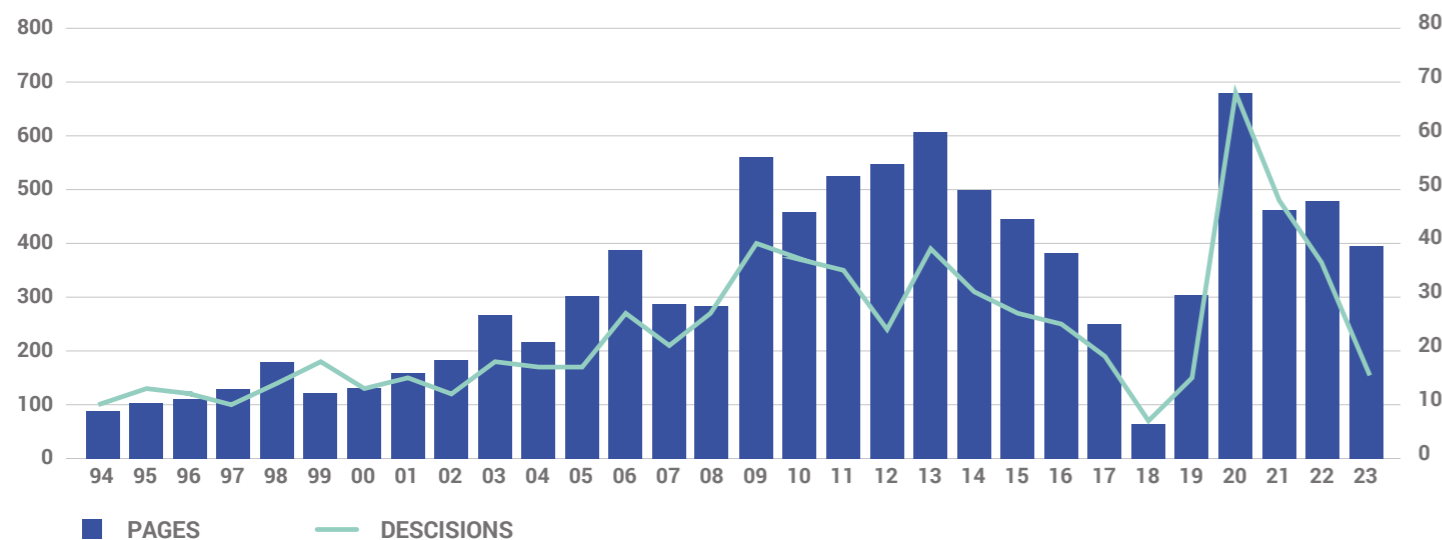
December, ESA [opened](#) an investigation into the sale of a property by the Norwegian municipality Lørenskog to a real estate developer.

ESA also closed three formal investigation during 2023. In June, an investigation into alleged State aid granted by Orkuveita Reykjavíkur to its subsidiary Ljósleiðarinn was [closed](#). ESA found that the measures did not constitute State aid since they were either small (de minimis aid) or did not confer an advantage. In September, ESA [closed](#) an investigation into alleged unlawful State aid granted to Remiks Group, a waste-management company based in Tromsø. ESA concluded that none of the measures under investigation constituted State aid in breach of the EEA Agreement. In December, a formal investigation into certain grants of aid under the Norwegian Catapult scheme was [closed](#). ESA concluded that the aid had been granted in accordance with the conditions set out in the General Block Exemption Regulation.

**NORWEGIAN MUNICIPAL MEASURES**

A number of municipal measures were assessed by ESA. This included the [approved](#) of a novel scheme for affordable housing in Oslo. The measure's objective, which was approved by ESA as a service of general economic interest, is to provide people with lower incomes with the opportunity to purchase a home in Oslo at 80% of the market price.

STATE AID OUTPUT 1994-2023



ESA [found](#) that the financing of municipal digitalisation services/solutions in Norway did not constitute State aid, as these were not economic activities.

ESA also [approved](#) investment aid for the relocation and construction of a new airport in Bodø. The relocation of the existing airport will allow for the development of the land where the existing airport is situated, and for this area to be integrated into the city of Bodø.

**LIECHTENSTEIN SUPPORT MEASURES**

ESA adopted two decisions approving State aid measures notified by the Liechtenstein Government. In February, ESA [approved](#) a grant scheme for businesses in Liechtenstein affected by the severe rise in energy prices caused by the Russian aggression against Ukraine. The scheme's objective is to preserve jobs by supporting businesses whose existence is threatened by the severe increase of energy prices.

In March, ESA [approved](#) the prolongation of the aid scheme under the Liechtenstein Media Support Act until 31 December 2029. The scheme aims to preserve pluralism, promote journalistic-editorial quality, and facilitate the dissemination of opinion-shaping media in Liechtenstein.

**PRIVATE ENFORCEMENT**

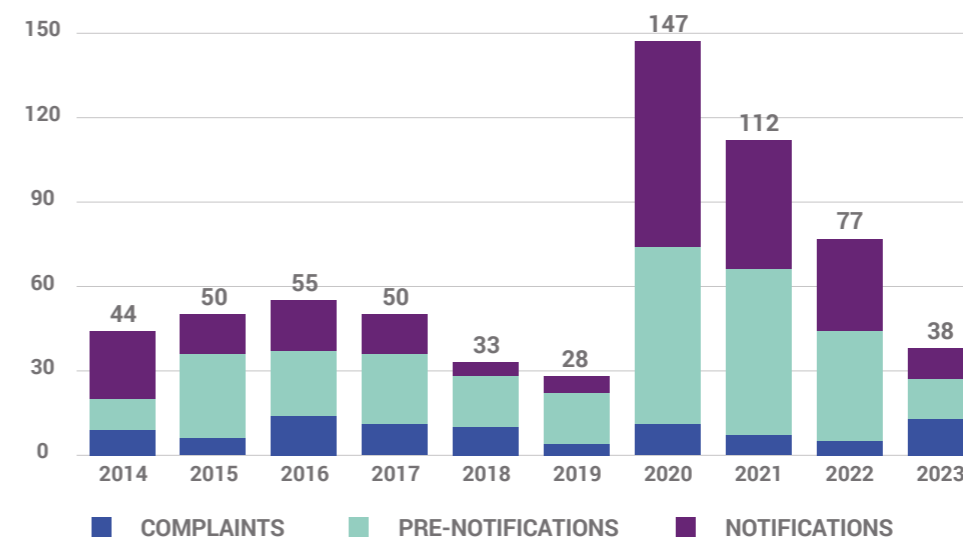
ESA adopted new [Guidelines](#) on the enforcement of

State aid rules by national courts applicable to the EEA EFTA States. The revised guidelines provide direction and information for national courts in Iceland, Liechtenstein and Norway when dealing with the enforcement of State aid rules. The new guidelines include several new elements and adjustments, including:

- Clarity on the roles and competences of ESA and national courts.
- Incorporation of recent case-law from the EFTA Court and the Court of Justice of the European Union.
- Additional tools for cooperation with national courts.
- Revision and updated references in light of the updated legal framework, and updated practical guidance for national courts facing private claims concerning unlawful State aid.

In March, ESA for the first time submitted [written observations](#) to the Norwegian Supreme Court in a case concerning State aid. In the [Boligbygg case](#), ESA's observations focused on the concept of unlawful aid, the standstill obligation and ensuring effective recovery. In September, the Supreme Court delivered a judgment that to a large degree followed ESA's reasoning on the question of effective recovery.

(PRE-) NOTIFICATIONS AND COMPLAINTS RECEIVED 2009-2023



## EEA COMPETITION LAW IN 2023

ESA is tasked with ensuring that undertakings operating in Iceland, Liechtenstein and Norway comply with the [EEA competition rules](#), which mirror those in the European Union.

Competition rules aim to safeguard healthy and fair competition between companies. They can help keep prices down, and encourage companies to become more innovative and efficient. Combined, this provides consumers with more choice, and enables them to enjoy more affordable and higher-quality products and services.

ESA has similar powers to the European Commission when it comes to enforcing competition rules. It can examine [complaints](#) or start an own-initiative investigation. It has wide fact-finding powers, including unannounced inspections, and it can impose fines of up to 10% of global turnover on companies that breach competition rules.

### OPENING OF FORMAL PROCEEDINGS AGAINST ELKJOP

ESA in May opened formal antitrust proceedings against Elkjøp, the leading retailer of electronic goods in Norway. This decision followed an unannounced inspection carried out by ESA at Elkjøp's premises in June 2021.

The opening of formal antitrust proceedings does not mean that ESA has made a finding of infringement. It only means that ESA is moving forward with an in-depth investigation. ESA is exploring if Elkjøp has infringed Articles 53 and 54 EEA by entering into arrangements that give it exclusive access to certain electronic goods. ESA is also looking into arrangements where specific competitors have been denied access to certain electronic goods. Such practices may potentially be anticompetitive.

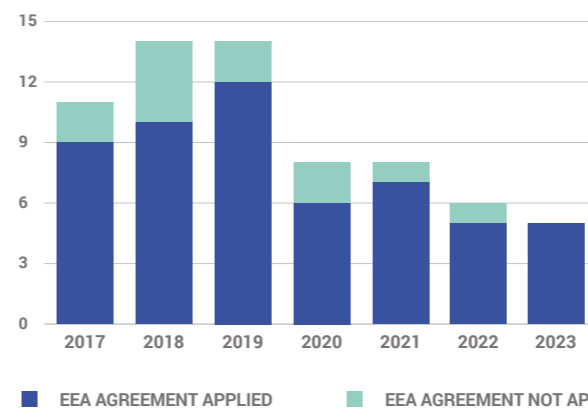
### INVESTIGATION INTO NORWAY'S GRANTING OF AN EXCLUSIVE RIGHT TO POWER EXCHANGE NORD POOL

The Norwegian Energy Regulatory Authority (RME) in 2021 granted Nord Pool, the incumbent power exchange in Norway, the exclusive right to organise the day-ahead electricity auction including the North Sea Link (NSL) interconnector's capacity. The NSL links the electricity markets of the United Kingdom and Southern and South-Western Norway (bidding zone NO2). ESA in 2022 received a complaint in July 2022 alleging that this amounted to an infringement by Norway of Article 59(1) EEA, read in conjunction with Article 54 EEA. According to the complaint, Nord Pool's exclusive right to include the NSL's capacity allegedly created an inequality of opportunities for economic actors in the Norwegian market for electricity trading facilitation services. This allegedly maintained or strengthened Nord Pool's already dominant position in that market to the detriment of new entrants. ESA's in-depth assessment of the complaint continued in 2023.

### REVISED INFORMAL GUIDANCE NOTICE

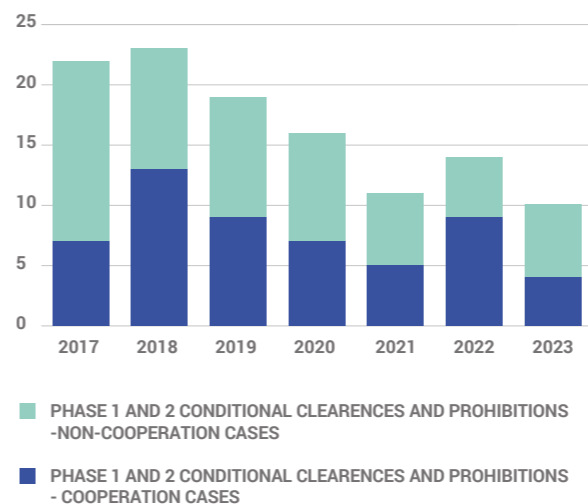
In June ESA adopted a [revised Informal Guidance Notice](#). This allows ESA's competition department to provide informal guidance to businesses in cases which contain novel or unresolved questions related to EEA competition law.

### THE EUROPEAN COMMISSION ANTITRUST/CARTEL DECISIONS



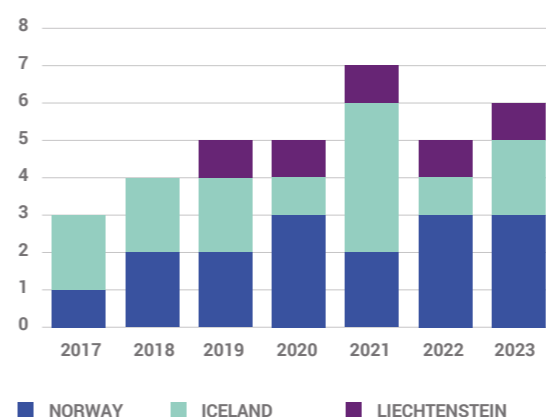
Graph 1 shows that the Commission has applied the EEA Agreement in the large majority of its antitrust cases in recent years (cooperation cases).

### THE EUROPEAN COMMISSION MERGER INTERVENTIONS



Graph 2 shows the total number of prohibitions and conditional clearances of mergers by the Commission between 2017 and 2023, a significant share of which were cooperation cases.

### ECOM CASES 2017 - 2023



Graph 3 gives an overview of the number of eCom notifications since 2017.

### COOPERATION WITH THE EUROPEAN COMMISSION

ESA shares jurisdiction with the Commission. Competition rules in the EEA are anchored in the "one-stop-shop" principle. This means that either the Commission or ESA, but not both, is competent to handle any given case. Still, robust cooperation mechanisms are in place to ensure that both authorities communicate regularly on their respective cases and have the opportunity to be heard.

### EUROPEAN COMPETITION NETWORK (ECN)

ESA and the EFTA EEA National Competition Authorities (NCAs) are part of the ECN, which includes the Commission and the EU NCAs. The ECN framework ensures continuous dialogue between enforcers across the EEA on competition policy and experience. It is a key instrument in supporting effective and consistent application of competition law across the EEA. ESA hosted 3 ECN meetings in 2023.

### COOPERATION WITH NATIONAL COMPETITION AUTHORITIES

NCAs and national courts in the EEA EFTA States apply Articles 53 and 54 EEA, in parallel with their equivalent national competition rules, in cases where there is an effect on EEA trade. To ensure coherent and efficient application of these provisions, NCA activities are coordinated with those of ESA.

Within the EFTA Competition Network, ESA, the Norwegian and Icelandic NCAs and the Liechtenstein Bureau of Competition regularly discuss competition law and hold expert-level meetings on technical or case-specific issues.

### ESA'S ROLE IN THE ELECTRONIC COMMUNICATIONS SECTOR IN 2023

The electronic communications (eCom) regulatory framework requires national regulatory authorities (NRAs) in the EEA EFTA States to notify certain draft measures to ESA prior to their adoption. ESA's eCom team assesses whether these measures comply with the eCom regulatory framework and EEA competition law principles. ESA may comment on notified draft measures and, in relation to certain sections, has a right of veto and to request the amendment or withdrawal of the draft national measures.

## LEGAL AND EXECUTIVE AFFAIRS IN 2023

The Legal and Executive Affairs Department (LEA) is ESA's legal service, providing legal advice and representing ESA in court. LEA supports the College in reviewing, coordinating and communicating ESA decisions, and handles requests for [public access to documents](#).

ESA participates in all [EFTA Court](#) Advisory Opinion cases. ESA may also bring infringement proceedings against EFTA States for non-fulfilment of their obligations under EEA law, and ESA's decisions can be challenged before the EFTA Court. Where it may be of assistance, ESA also participates in proceedings in the Court of Justice of the EU, the EFTA States' courts, and the European Court of Human Rights.

### MAIN ACTIVITIES IN 2023

In 2023 LEA reviewed 707 decisions, and handled 87 public access requests.

ESA's litigation work in 2023 included 20 advisory opinions, four infringement proceedings concerning non-compliance with EEA law, one infringement proceedings concerning non-implementation of a directive, and one action for annulment of an ESA decision.

ESA also participated in eight cases before the CJEU and one case before the Norwegian Supreme Court. The EFTA Court handed down one judgments in 2023: six advisory opinions, one infringement case, and one judgment concerning the validity of an ESA decision.

### HIGHLIGHTS

#### E-9/23 ESA v Norway

One of 2023's most important cases was Case E-9/23, concerning in-patients' right to reimbursement of treatment outside of Norway. ESA submitted that Norwegian practice is unlawful under EEA law, notably Article 36 EEA and Regulation 883/2004.

#### E-5/23 LDL v. Påtalemyndigheten

The Norwegian Supreme Court requested an Advisory Opinion on the compatibility with EEA law of measures taken by the government during the COVID-19 pandemic, specifically the obligation for individuals entering Norway to stay at a quarantine hotel.

#### E-2/23 A Ltd v Finanzmarktaufsicht

The Liechtenstein Board of Appeal of the Financial Market Authority requested an advisory opinion on Article 59 of Directive 2009/138/EC, known as Solvency II. The Court provided guidance on the extent to which guidelines issued by EU agencies and endorsed by competent authorities in EFTA States affect national courts.

#### E-13/22 Birgir Þór Gylfason; E-1/23 Elva Dögg Sverrisdóttir, and E-4/23 Neytendastofa.

These advisory opinion cases from Iceland concern the legality of contractual terms in consumer credit agreements which set a variable interest rate. The Court is asked to rule on whether the bank is limited to reflecting changes in the base rate from the central bank, or whether it may also factor in changes in other types of costs.

### ESA'S COURT CASES IN 2023

#### EFTA Court

[E-10/22 Eviny AS v EFTA Surveillance Authority](#)  
[E-13/22 Birgir Þór Gylfason and Jórunn S. Gröndal v Landsbankinn hf.](#)  
[E-1/23: Elva Dögg Sverrisdóttir and Ólafur Viggó Sigurðsson v Íslandsbanki hf.](#)  
[E-2/23 A Ltd v Finanzmarktaufsicht](#)  
[E-3/23 A v Arbeids- og velferdsdirektoratet](#)  
[E-4/23 Neytendastofa v Íslandsbanki hf.](#)  
[E-5/23 Criminal Proceedings against LDL](#)  
[E-6/23 Criminal Proceedings against MH](#)  
[E-7/23 ExxonMobil Holding Norway AS v Staten v/ Skatteetaten](#)  
[E-8/23 Trannel International Limited v Staten v/Kultur- og likestillingsdepartementet](#)  
[E-9/23 EFTA Surveillance Authority v The Kingdom of Norway](#)  
[E-10/23 X v Finanzmarktaufsicht](#)  
[E-11/23 Låssenteret AS v Assa Abloy Opening Solutions Norway AS](#)  
[E-12/23 Norwegian Air Shuttle ASA v Staten r./Klima- og miljødepartementet](#)  
[E-13/23 EFTA Surveillance Authority v The Kingdom of Norway](#)  
[E-14/23 EFTA Surveillance Authority v The Kingdom of Norway](#)  
[E-15/23 K v Nasjonalt klageorgan for helsetjenesten \(National Office for Health Service Appeals\)](#)  
[E-15/23 K v Nasjonalt klageorgan for helsetjenesten \(National Office for Health Service Appeals\)](#)  
[E-16/23 EFTA Surveillance Authority v The Kingdom of Norway](#)

#### EU courts:

[Joined Cases C-611/22 P Illumina Inc v Commission and C-625/22 P Grail v Commission](#)  
[C-298/22 Banco BNP](#)  
[C-48/22 P Google Shopping](#)  
[C-465/20 P Commission v Ireland and Apple Sales International and Apple Operations Europe](#)  
[C-8/23 Conseil national de l'ordre des médecins](#)  
[C-329/23 Sozialversicherungsanstalt](#)

#### National courts:

[Sak nr. 22-135401 SIV-HRET HR-2023-1807-A Boligbygg](#)

## EXTERNAL RELATIONS AND OUTREACH

More than 70 events, including bilateral meetings, visits, presentations, and conferences, were organised or co-organised by ESA's communications staff. The vast majority of these events took place in Brussels, either at ESA's headquarters at EFTA House or at the premises of other organisations. Among ESA's major events last year were the 2022-2023 EEA Law Moot Court, breakfast seminars with Arancha González Laya and Simen Ekern, and the annual Surveillance Policy Dialogue organised in cooperation with the European Commission.

In addition, ESA continued its outreach efforts by participating in various career fairs in both Iceland and Norway, with a particular focus on promoting the Junior Professionals program for students in the fields of law, social sciences, and economics.

### MOOT COURT

The 2022-23 EEA Law Moot Court was held in Bergen on Saturday 25 and Sunday 26 March 2023, with participation from students at the University of Bergen, the University of Oslo, and Reykjavík University. Hosted by the UiB Law Faculty and Gulating Court of Appeal, the Moot Court President was Norwegian Supreme Court Justice Henrik Bull and the guest of honour on the judging panel was EFTA Court Judge Bernd Hammermann.

The winning team comprised Paulina Sitarz, Tea Kjendalen, Gina Cecilie Heskestad, Emil Gjerstad Hatletvedt and Idunn Nybø Thorsdal, from the University of Bergen. Paulina Sitarz was also awarded the Best Speaker prize.

The winners participated in a VIP trip to Brussels and Luxembourg, where they were granted behind-the-scenes access to ESA, the EU institutions, the EFTA Court, and the Court of Justice of the EU. Throughout the week, they engaged in expert workshops and in-depth discussions with judges and officials.

### SURVEILLANCE POLICY DIALOGUE

On 28 November the first Annual Surveillance Policy Dialogue was hosted at the EFTA House. The event was hosted by the two sister organisations – the European Commission and the EFTA Surveillance Authority. During the Policy Dialogue the two organisations shared experiences and good practices on enforcement for the good functioning of the internal market.

Representatives from the Secretariat-General, various Directorates-General, and the Legal Service in the European Commission participated. ESA Vice-President Árni Páll Árnason welcomed attendees to the event. Other senior-level speakers from ESA included Melpomenie Joséphidès, Director of Legal and Executive Affairs, Jónína Sigrún Lárusdóttir, Director, Internal Market Affairs, and Maria Moustakali, Deputy-Director Internal Market Affairs. Among the speakers from the Commission were Stephanos Ampatzis, Deputy Head of Unit, DG Environment and Javier Palmero Zurdo, Deputy Head of Unit, DG Grow, as well as representatives from many other directorates-general, including DG Employment and the Commission's legal service.

### ESA AND THE MEDIA

ESA published 68 press releases in 2023, of which 39 were also published in Norwegian, 20 in Icelandic and ten in German. Throughout 2023, ESA was mentioned in news media more than 2,200 times according to Retriever, the news monitoring service.



M-Lex Editor Lewis Crofts with Norwegian Energy Minister Terja Aasland and European Commissioner for Energy Kadri Simson at the Carbon Capture and Storage conference.



ESA's College and Directors meet Norwegian Foreign Minister Espen Barth Eide.

ESA's College meets Maroš Šefčovič, Executive Vice-President of the European Commission.



ESA's College meets Daniel Risch, Prime Minister of Liechtenstein.

Winners and judges of the 2023 Moot Court.

## GLOSSARY OF TERMS

**Agreement on the European Economic Area (EEA Agreement)** – The Agreement that created the European Economic Area.

**Case** – An assessment of the implementation or application of EEA law, or tasks executed for the purpose of fulfilling ESA's obligations under EEA law, registered before and during the year. These cases do not necessarily lead to the initiation of infringement proceedings against one or more EEA EFTA States or undertakings, or the opening of formal investigations.

**Complaints** – Cases in which ESA examines information received from economic operators or individuals regarding measures or practices in the EEA EFTA States that are not considered to be in conformity with EEA rules.

**European Economic Area (EEA)** – An area of economic cooperation consisting of the 27 EU Member States and three of the four EFTA States: Iceland, Liechtenstein and Norway. Switzerland is not part of the EEA. Inside the EEA, the rights and obligations established by the Internal Market of the European Union are expanded to include the participating EEA EFTA States.

**EEA EFTA States** – The three EFTA States that participate in the EEA: Iceland, Liechtenstein and Norway.

**EEA Joint Committee** – The committee of representatives of the EU and the EEA EFTA States competent to incorporate legislation into the EEA Agreement.

**EFTA Court** – The judicial body with jurisdiction regarding the obligations of the EEA EFTA States and ESA pursuant to the EEA Agreement. The main functions of the EFTA Court consist of judgments in direct actions, in particular infringement cases brought by ESA against the EEA EFTA States, and advisory opinions in cases referred to it by the national courts of the EEA EFTA States.

**EFTA Surveillance Authority (ESA)** – The organisation that ensures that the three EEA EFTA States fulfil their legal obligations as stated in the EEA Agreement.

**European Free Trade Association (EFTA)** – An inter-governmental organisation set up for the promotion of free trade and economic integration to the benefit of its four members: Iceland, Liechtenstein, Norway and Switzerland.

**Management tasks** – Cases opened on the basis of an obligation on ESA deriving from the EEA Agreement directly, or from secondary legislation such as eCOM notifications and draft technical regulations.

**Notifications** – State aid measures, draft technical regulations and telecommunications market notifications that are submitted to ESA by the EEA EFTA States for examination or approval.

**Own-initiative cases** – Cases opened by ESA at its own instigation. Own-initiative cases include the non-implementation of directives, the non-incorporation of regulations for Iceland and Norway, and the examination of implementation and application of EEA law. This also covers food safety and transport inspections.

**ESA** | EFTA  
Surveillance  
Authority

EFTA Surveillance Authority  
Avenue des Arts 19H  
1000 Brussels  
Belgium

Tel: +32 2 286 18 11  
Email: [info@eftasurv.int](mailto:info@eftasurv.int)



