

EUROPEAN ECONOMIC AREA

JOINT COMMITTEE

2 March 2021

3 Annexes

Ref. 21-168

Annual Report of the EEA Joint Committee 2020 The Functioning of the EEA Agreement (Article 94(4))

General overview

1. The main part of this report provides an overview of the work of the EEA Joint Committee in 2020. Annex I contains a review of the activities of the Subcommittees under the EEA Joint Committee. Annex II contains an overview of the state of decision making in 2020. Annex III presents a list of EEA Joint Committee Decisions (JCDs) adopted in 2020.
2. The EEA Joint Committee met nine times in 2020. One of these meetings was an urgent meeting to discuss the COVID-19 outbreak and the impact on the EEA EFTA States of Commission Implementing Regulation ((EU) 2020/402). This made the exportation of certain products subject to an export authorisation. From March onwards the Committee met through video conference. In addition to regular meetings, five written procedures took place in 2020, mainly to incorporate urgent acts related to COVID-19 and the end of the United Kingdom's (UK) transition period. In total the EEA Joint Committee adopted 240 decisions incorporating 370 legal acts in 2020, including:
 - Decision No 27/2020 to approximate the laws of the Member States relating to trademarks
 - Decision No 39/2020 on requirements relating to emission limits and type-approval for internal combustion engines for non-road mobile machinery
 - Decision No 47/2020 on temporary measures to contain risks during certain serious disruptions of Member States' control systems due to COVID-19
 - Decision No 48/2020 on derogations to the common rules for the allocation of slots at Community airports due to COVID-19
 - Decision No 63/2020 on matters relating to the prevention of money laundering and terrorist financing
 - Decision No 73/2020 on Campylobacter in broiler carcasses
 - Decision No 83/2020 on the implementation and functioning of the “.eu” top-level domain name

- Decision No 91/2020 on measures concerning the renewal or extension of certain certificates, licences and authorisations and the postponement of certain periodic checks and periodic training in certain areas of transport legislation due to COVID-19 (Omnibus)
 - Decision No 92/2020 on amendments of common rules for the operation of air services in the Community due to COVID-19
 - Decision No 112/2020 on the revision of the Emission Trade System (ETS)
 - Decision No 114/2020 on the conduct of clinical trials with and supply of medicinal products for human use containing or consisting of genetically modified organisms intended to treat or prevent coronavirus disease (COVID-19)
 - Decision No 115/2020 on the prolongation of the *de minimis* Regulation and the prolongation and amendment of the General Block Exemption Regulation as result of the COVID-19 outbreak
 - Decision No 136/2020 on the full accomplishment of the internal market of Community postal services
 - Decision No 164/2020 on aviation security measures due to the COVID-19 pandemic
 - Decision No 165/2020 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled
 - Decision No 168/2020 setting CO2 emission performance standards for new passenger cars and for new light commercial vehicles
 - Decision No 176/2020 on temporary extension of exceptional measures related to allocation of airport slots to address the consequences caused by the COVID-19 pandemic
 - Decision No 179/2020 on Animal Health Law
 - Decisions No 204-207/2020 on Electricity Network Codes
 - Decision No 224/2020 on exceptional measures for the third reference period of the single European sky performance and charging scheme due to COVID-19
3. The biannual Internal Market Scoreboard, published by the EFTA Surveillance Authority (ESA) in September 2020 and reflecting the state of play on 31 May 2020, shows that the average transposition deficit of the EEA EFTA States increased from 0.7% to 0.9% since the December 2019 Scoreboard. In this period, the deficit of Iceland increased from 0.6% to 1.2%, the deficit of Norway increased from 0.3% to 0.6% and the deficit of Liechtenstein remained the same at 0.9%.¹

¹From 2009, ESA used the interim target of 1% set by the European Council in 2007 as a benchmark and is now looking towards a benchmark of 0.5% in line with the European Commission's Single Market Act proposed in April 2011.

Incorporation of acquis into the EEA Agreement

4. In 2020, 370 legal acts were incorporated into the EEA Agreement, which is 48% less than in 2019, when 708 legal acts were incorporated. In 2020, 595 legal acts were identified by the EFTA side as possibly being EEA relevant, which is 13% less than in 2019, when 688 legal acts were identified as possibly being EEA relevant.
5. On 19 December 2020, when the monitoring list was run for the last time in 2020, there were 577 legal acts awaiting incorporation where the compliance date in the EU had passed, compared to 435 acts in November 2019. This represents an increase of 25%.
6. On 31 December 2020, the number of JCDs awaiting the fulfilment of constitutional requirements for more than six months stood at 21, compared to 29 on 31 December 2019. On 31 December 2020, the number of “linked” JCDs, where the entry into force depended on the entry into force of other JCDs that had already been or would be adopted, stood at 26, as it did on 31 December 2019.

EEA EFTA participation in EU agencies and programmes

7. Based on the EEA Agreement, the EEA EFTA States participated in 15 EU programmes and 22 agencies, of which 17 were regulatory agencies and five executive agencies (listed in Annex I).

Decision shaping

8. In 2020, the EEA EFTA States submitted two EEA EFTA Comments on the following subjects (in 2019 there were five EEA EFTA Comments submitted):
 - The European strategies for Artificial Intelligence (AI) and Data
 - The European Strategy for a Sustainable and Smart Mobility
9. The EU responded to the comment on Artificial Intelligence and Data strategies in a meeting of the EFTA Working Group on ECASIS. The EEA EFTA Comment on the European Strategy for a Sustainable and Smart Mobility, that was sent to the EU in December 2020, had not yet been responded to by the end of the year.

Key outstanding issues

10. The discussions on the following key issues had not been concluded by 31 December 2020 (further information is found in Annex I):
 - Directive 2010/31/EU on the energy performance of buildings
 - Directive 2012/27/EU on energy efficiency
 - Directive 2012/34/EU establishing a single European railway area and related acts (the Railway Package, recast)

- Regulation (EU) 2016/796 on the European Union for Railways and related acts (the 4th railway package)
- Regulation (EU) 2018/1139 on common rules in the fields of civil aviation and establishing a European Union Aviation Safety Agency (EASA)
- Regulation (EC) No 391/2009 on common rules and standards for ship inspection survey organizations and related acts (the Ship Inspection Package)
- Directive 2018/1808/EU concerning the provision of audiovisual media services (Audiovisual Media Services Directive)

11. The EEA Joint Committee has reiterated its determination to work towards the rapid conclusion of these issues.

Advisory bodies under the EEA

12. The EEA Consultative Committee held its annual meeting by videoconference on 18 September 2020. The Committee adopted resolutions on:

- The European Green Deal
- The EU's Industrial Strategy and the EEA

13. The EEA Joint Parliamentary Committee cancelled its meeting foreseen in Reykjavik on 19-20 May 2020 due to the COVID-19 pandemic. It held a meeting through videoconference on 16 November 2020, where it adopted a resolution on:

- The Annual Report of the EEA Joint Committee on the Functioning of the EEA Agreement in 2019

14. The resolutions were subsequently forwarded to the EEA Joint Committee and the EEA Council.

EEA Financial Mechanism

15. The Agreement on the EEA Financial Mechanism for the 2014-2021 period, with a total commitment of EUR 1548.1 million, and the Agreement on the Norwegian Financial Mechanism for the same period, with a total commitment of EUR 1253.7 million, entered into force on 1 September 2017.

16. As of the end of 2020, Memoranda of Understanding on the EEA Grants had been signed with Bulgaria, Croatia, Cyprus, the Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia, and Slovenia.

EUROPEAN ECONOMIC AREA

JOINT COMMITTEE

Annex I to ref. 21-168

ACTIVITIES OF JOINT SUBCOMMITTEES IN 2020

FREE MOVEMENT OF GOODS

General

1. In 2020, 228 legal acts in the areas covered by Subcommittee I were incorporated into the EEA Agreement.

Veterinary issues, feeding stuffs and phytosanitary matters

2. 93 legal acts were incorporated in the veterinary and phytosanitary field.
3. Additionally, 93 legal acts were implemented pursuant to the simplified procedure. Instead of being incorporated into the EEA Agreement by adoption of a JCD, the simplified procedure requires that the EEA EFTA States take equivalent measures simultaneously with the EU Member States. The EEA EFTA States are therefore invited to implement and apply the measures adopted by the EU in the same manner and within the same deadlines as those applicable to the EU Member States. These legal acts are taken note of by the EEA Joint Committee.
4. The JCD incorporating the framework Regulation on Animal Health Law was adopted on 11 December 2020 and will enter into force once all the EEA EFTA States have lifted their constitutional requirements. Several acts were also adopted on 30 December 2020 to ensure that there was no disruption in trade in Sanitary and Phytosanitary (SPS) goods with the United Kingdom at the end of its transition period.

Technical regulations, standards, testing and certification

5. 110 legal acts were incorporated into the EEA Agreement, of which most related to foodstuffs and dangerous substances.
6. In the foodstuffs area, Implementing Regulation (EU) 2020/466 on emergency measures to contain risks to human, animal and plant health and animal welfare during certain disruptions of Member States' control systems due to coronavirus disease (COVID-19) was incorporated on 3 April 2020. The JCD incorporating Implementing Regulation

(EU) 2020/977 on derogations regarding controls on the production of organic products due to the COVID-19 pandemic was adopted on 25 September 2020.

7. The JCD adopting Regulation (EU) 2019/515 on the mutual recognition of goods lawfully marketed in another Member State, was adopted on 14 July 2020. In the field of motor vehicles, the JCD incorporating Regulation (EU) 2019/631, setting CO2 emission performance standards for new passenger cars and for new light commercial vehicles, was adopted on 23 October 2020. None of these decisions had entered into force by the end of 2020, due to constitutional requirements.

Energy

8. Seven acts were incorporated into the EEA Agreement in the field of energy, including four acts on Electricity Network Codes.
9. The EFTA Working Group on Energy Matters continued discussions both internally and with the European Commission about the incorporation of the Energy Efficiency Directive 2012/27/EU and the recast Energy Performance of Buildings Directive 2010/31/EU.
10. The EEA EFTA experts followed the issues relating to the European Green Deal closely and discussed with DG Energy developments related to the energy aspects of it.

Intellectual property rights

11. The JCD incorporating the Trademark Directive (EU) 2015/2436 was adopted on 7 February 2020. It had however not entered into force by the end of 2020, due to constitutional requirements.

State aid

12. The JCD incorporating the prolongation of the *de minimis* Regulation and the prolongation and amendment of the General Block Exemption Regulation (providing a time-bound derogation for undertakings which became undertakings in difficulty as a result of the COVID-19 pandemic) was adopted by written procedure on 6 August 2020.
13. The EFTA side submitted to the EEAS in December 2020 the draft JCD incorporating the prolongation of the Regulation allowing *de minimis* aid to undertakings providing services of general economic interest and providing a time-bound derogation for undertakings which became undertakings in difficulty as a result of the COVID-19 pandemic.

FREE MOVEMENT OF CAPITAL AND SERVICES

14. In 2020, 115 legal acts in the areas covered by Subcommittee II were incorporated into the EEA Agreement.

Financial services

15. In 2020, 77 acts in the field of financial services were incorporated into the EEA Agreement. The Task Force on Financial Services was granted a renewed mandate by Subcommittee II. During 2020 it met internally and with representatives from DG FISMA and the EEAS, in order to progress at expert level on a number of important draft Joint Committee Decisions.

16. The JCD incorporating Directive (EU) 2018/843 amending Directive (EU) 2015/849 regarding the prevention of money laundering and terrorist financing was adopted on 30 April 2020. It had not entered into force by the end of 2020, due to constitutional requirements. Regulation (EU) 1286/2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs), Regulation (EU) 2015/760 on European long-term investment funds, Regulation (EU) 2017/1131 on money market funds and Regulation 2019/630 on non-performing exposures were incorporated in 2020.

Electronic communication, audio-visual services, information society and data protection

17. In total, three legal acts were incorporated into the EEA Agreement in this field in 2020. This included Regulation 2019/517 on the .eu top-level domain name. In the area of data protection, the adequacy decision on the EU–US Privacy Shield was deleted from the EEA Agreement.

18. Discussions continued on the incorporation of the Directive establishing the European Electronic Communication Code and the Regulation establishing BEREC, which will replace the current regulatory framework on electronic communications. Amended draft JCDs for these two acts were submitted to the EEAS in November 2020. The EEA EFTA States progressed with the incorporation of the Web Accessibility Directive with corresponding implementing acts. The EFTA Working Group on ECASIS held extensive discussions with the Commission regarding adaptations to Directive 2018/1808/EU (Audiovisual Media Services Directive).

Postal services

19. The JCD incorporating the third Postal Services Directive 2008/6/EC was adopted on 25 September 2020. Fulfilment of constitutional requirements is pending.

Transport

20. In the field of transport, 30 legal acts were incorporated into the EEA Agreement. Nine of these acts related to the COVID-19 pandemic and two were related to the end of the UK transition period. In total, 11 acts were incorporated through urgent written procedures.
21. The legislation incorporated in 2020 covered *inter alia* derogations to the common rules for the allocation of slots at Community airports, measures concerning the renewal or extension of certain certificates, licences and authorisations and the postponement of certain periodic checks and periodic training in certain areas of transport legislation due to COVID-19 (Omnibus). It also included amendments to common rules for the operation of air services in the Community, amendments to aviation security legislation, amendments to the third reference period of the single European sky performance and charging scheme due to the COVID-19 pandemic and a framework for the provision of port services. Two acts were incorporated by written procedure at the end of December on aviation safety and on common rules ensuring basic road freight and road passenger connectivity at the end of the UK transition period.
22. A revised draft JCD incorporating Directive 2012/34/EU establishing a single European railway area and related acts (the Railway Package - recast) was submitted to the EEAS on 11 March 2020.
23. A draft JCD incorporating Regulation (EU) 2016/796 on the European Union for Railways and related acts (the 4th railway package) was submitted to EEAS on 4 March 2020.
24. A draft JCD incorporating Regulation (EU) 2018/1139 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency (EASA) was submitted to the EEAS on 1 July 2020.
25. A revised draft JCD for the incorporation of Regulation (EC) No 391/2009 on common rules and standards for ship inspection and survey organisations and related acts (the Ship Inspection Package), was informally sent to the EU on 7 February 2020. EFTA experts shared a Note on the Financial Penalty Powers of the EU Institutions under the EEA Agreement with the EEAS on 17 September 2020.

FREE MOVEMENT OF PERSONS

26. In 2020, three legal acts were incorporated into the EEA Agreement in the area covered by Subcommittee III. The incorporated legislation covered one delegated decision amending Annex VII on recognition of professional qualifications, one Administrative Commission Decision and one recommendation amending Annex VI on social security.

HORIZONTAL AND FLANKING POLICIES

27. In 2020, 24 legal acts were incorporated into the EEA Agreement in the areas covered by Subcommittee IV.

Budgetary matters – programmes and agencies

28. The proportionality factor was 2.45% in 2020, compared to 2.42% in 2019. Through the budgetary procedure, it was agreed that 26 EEA EFTA national experts would be seconded to the various directorates within the European Commission that deal with joint EU programmes and activities.

29. In 2020 the EEA EFTA States participated and contributed to the following programmes:

- Connecting Europe Facility (ICT Part)
- Competitiveness of Enterprises and Small and Medium-sized Enterprises (COSME)
- Creative Europe
- Employment and Social Innovation
- Erasmus+
- European Statistical Programme
- Horizon 2020
- Rights, Equality and Citizenship
- Union Civil Protection Mechanism
- Consumer Programme
- Copernicus
- Galileo
- Health Programme
- Interoperability solutions for European public administrations, businesses, and citizens (ISA²)
- Preparatory Action on Defence Research

30. In 2020 the EEA EFTA States participated in the following EU agencies:

Regulatory agencies:

- European Foundation for Improvement of Living and Working Conditions (EUROFOUND)
- European Centre for Development of Vocational Training (CEDEFOP)
- European Environment Agency (EEA)

- European Medicine Agency (EMA)
- European Maritime Safety Agency (EMSA)
- European Aviation Safety Agency (EASA)
- European Centre for Disease Prevention and Control (ECDC)
- European Network and Information Security Agency (ENISA)
- European Railway Agency (ERA)
- European Chemicals Agency (ECHA)
- European GNSS Agency (GSA)
- European Food Safety Authority (EFSA)
- European Agency for Safety and Health at Work (EU-OSHA)
- European Banking Authority (EBA)
- European Insurance and Occupational Pensions Authority (EIOPA)
- European Securities and Markets Authority (ESMA)
- European Union Agency for the Cooperation of Energy Regulators (ACER)
- European Data Protection Board (EDPB)

Executive agencies:

- Executive Agency for Competitiveness and Innovation (EACI)
- Education, Audiovisual and Culture Executive Agency (EACEA)
- Executive Agency for Health and Consumers (EAHC)
- European Research Council Executive Agency (ERC)
- Research Executive Agency (REA)

Environment

31. In the field of the environment, 12 legal acts were incorporated into the EEA Agreement in 2020. This included Directive (EU) 2018/410 to enhance cost-effective emission reductions and low-carbon investments (the ETS Directive) and its secondary level acts, including Regulation (EU) 2019/856 regarding the operation of the Innovation Fund.

32. The EEA EFTA experts followed the issues relating to the European Green Deal closely and discussed with their counterparts in DG Environment and DG Climate Action, the relevant developments.

Statistics

33. One act was incorporated into the EEA Agreement in the field of statistics, namely Regulation (EU) 2019/516 on harmonisation of gross national income at market prices.

Health and safety at work and labour law

34. In the field of health and safety at work and labour law, five legal acts were incorporated into the EEA Agreement in 2020. These were Directive 2013/54/EU concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention; Directives (EU) 2019/130 and (EU) 2019/983 amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work; Council Directive (EU) 2018/131 implementing the Agreement to amend Directive 2009/13/EC in accordance with the amendments of 2014 to the Maritime Labour Convention; and Commission Directive (EU) 2019/1831 establishing a fifth list of indicative occupational exposure limit values.
35. Experts continued examining several legislative files. These included Regulation (EU) 2019/1149 establishing a European Labour Authority, Regulation (EU) 2019/126 establishing EU-OSHA, Regulation (EU) 2019/127 establishing Eurofound, Directive (EU) 2019/1152 on transparent and predictable working conditions and Directive (EU) 2019/1937 on protection of persons reporting on breaches of Union law.

Enterprise Policy and Internal Market Affairs

36. The last notification of fulfilment of constitutional requirements for JCD No 311/2019 incorporating Regulation (EU) 2018/302 - the Geo-blocking Regulation - into the EEA Agreement was sent in July 2020. The JCD entered into force on 1 August 2020.

LEGAL AND INSTITUTIONAL MATTERS

37. No meeting of the Joint Subcommittee V took place in 2020.