

Presentation given by Bente Angell-Hansen, President of the EFTA Surveillance Authority at the EFTA Seminar, 15th September 2020.

Ladies and gentlemen, good afternoon to you all,

I am very pleased to be invited to speak about the Covid-19-related work of the EFTA Surveillance Authority. And I am happy to see the large turnout for this event.

Indeed, these are challenging times and at ESA, the pandemic has permeated most of our work in the past 6 months and continues to do so. The work load is enormous, and the nature of our work means that time continues to be of essence.

When we left our offices on 12th March to work from home, we also faced the additional challenge of developing new ways of working.

Prior to moving into our home offices, we set two key priorities: One was to deal with Covid-related matters, the other to continue working on issues pertaining to climate change and the environment. Needless to say, other important tasks have also come to the boil during the pandemic, including the Telenor competition decision and ESA's litigation work in particular before the EFTA Court. As to the latter, there has been a reference made for an advisory opinion on the NAV case pertaining to conditions for cash benefits in Norway.

As we know, crises can also give rise to opportunities. At ESA, we have been able to demonstrate that the organisation is able to deliver on the EEA Agreement, also in pandemic times. Equally important, increased visibility has given ESA an opportunity to enhance knowledge about the Agreement and ESA's work in the general public in our three countries, Iceland, Liechtenstein and Norway. We want to play our part in demonstrating that legally binding international cooperation works to the benefit of countries, citizens and businesses. Looking at the world today, defending rules-based multilateral cooperation is more important than ever.

As mentioned, ESA is often under time pressure to take complex and important decisions rapidly. This can be illustrated by media and other stakeholders having a keen eye on our performance. Still, we have received praise for our work in Covid-related state aid decisions. But we have also been met with headlines such as, and I quote: *ESA is delaying necessary relief to saving jobs and businesses.* Or: *We need to ask Brussels and ESA to use our own funds to save jobs.* End of quote.

Let me at this stage of the pandemic draw one conclusion seen from an ESA perspective: So far we have been able to continue to deliver on our mandate. This is key to the credibility and well-functioning of the EEA Agreement.

However, ESA is not a big institution and there were risks that we would fall short of a satisfactory response to the challenges. As the pandemic rages on these risks still exist; we continue to be stretched and we are running up a backlog in specific areas. This was also the case after the financial crises in 2008. However, in this time of prolonged crisis, ESA has continued to deliver those decisions which are essential in ensuring compliance with the EEA Agreement to the benefit of citizens and businesses in Iceland, Liechtenstein and Norway.

I want to underline that it would not have been possible to get this far without timely and seamless cooperation with the European Commission and without the efforts of our three states. We are grateful for that. Also, Colledge is impressed by and grateful for the dedication and hard work of our ESA colleagues. Let me add that we are aware of the immense efforts being made by parliaments and governments in the EEA EFTA states to mitigate the negative health and economic consequences for national economies, businesses and citizens. Also, I would be amiss not to mention our excellent contact with the EFTA secretariat.

Let me now briefly focus on three main points of detail pertaining to our Covid-related work. **Firstly**, how are we using the existing framework of the EEA Agreement to respond to the crisis in a flexible way, **secondly** competition and state aid measures ESA has taken since this crisis began, and **thirdly** other pandemic related steps that we have taken.

First, **the legal framework** underpinning the EEA Agreement and the Internal Market contains flexibilities that can be put to use in times of crisis such as this one.

When **making use of these flexibilities** we are in close contact with the Commission to ensure that the Internal Market continues to function in a unified, homogenous manner. The Commission has published a series of Guidelines clarifying how the legislation can be interpreted and applied in a manner that fits the current circumstances.

ESA is using these guidelines in areas such as public procurement, road and sea transport and package travel. I underline that we only do so within ESA's mandate, without adopting parts of the guidelines that lie beyond our mandate – in areas such as, for example, Schengen.

Similarly, we are using the Temporary Framework on state aid, enabling the EEA EFTA states to apply the full flexibility of the state aid rules to support the economy.

These arrangements are dynamic and ongoing – and may indeed be prolonged as we approach the end of 2020. There is a need for close monitoring in order for both pillars of the EEA to stay fully aligned.

Furthermore, ESA remains fully aware that our decisions may later be scrutinized by the EFTA Court, just as the Court of Justice scrutinizes decisions on the EU side. This reflects the institutional division of the mandates provided under the two-pillar system of the EEA Agreement. Also, for this reason, we want to get it right. We want to provide legal certainty and we want to do it fast.

Secondly, let me now turn to **competition and state aid**.

The field of **competition** has seen particular challenges emerge during the pandemic as companies seek to cooperate more than usual. Such competition may be legitimate and necessary, but there is also the risk that it is misused to the detriment of consumers. We are working intensively with national authorities in the EEA EFTA states and with the Commission to make sure that consumers' interests are not sacrificed for the interests of companies.

In **state aid** we are seeing an unprecedented workload stemming from the need for states to take steps that will mitigate the economic and social effects of the pandemic. So far this year, ESA has made a total of 40 decisions on state aid, surpassing our previous high-water mark from 2009. ESA is working closely with all three EFTA states to ensure that they can put in place well-targeted and effective aid measures to support the national economy, and safeguard jobs and welfare, during the crises and beyond. In carrying out this work, the speed and quality of the cooperation from the national authorities of EEA EFTA States is appreciated by ESA.

The decisions we have made so far pertain to a variety of areas, such as transport, tourism, culture and sports events, and support for business. This is about saving jobs and businesses and thus lessen the dire effects of the pandemic. It is also about reducing the negative impacts on people's lives.

Through cooperation with Liechtenstein, solutions for most of the country's needs were quickly found. Likewise, thanks to the cooperation with Iceland and Norway, good solutions have been found for pressing issues there, and we continue to work intensively together to meet the challenges the prolonged pandemic brings. All along the close cooperation with the Commission, in particular DG Competition, benefits our work and in turn benefits the EEA EFTA states.

In the midst of this continued crisis, we are keeping up our efforts for a **greener, better future** and we have managed to continue work on select environmental aid cases. We have passed decisions on state aid pertaining to offshore wind, as well as carbon capture and storage. But due to our limited resources, other cases in the field of state aid are put on hold. This will necessarily lead to increased case handling times going forward.

Thirdly, let me turn to **other pandemic-related matters** that might not always be so visible.

As the crisis emerged, the initial focus of ESA was on **maintaining the free flow** of essential goods and services, as well as of key personnel across EEA borders. In mid-March we adopted an important decision in the Financial Services field, on the threshold for disclosure of net short positions. This is an area where cooperation is not only close on substance, but also on timing. We highly value this excellent cooperation with the EU side.

As a result of the health-related measures taken, we are not able to conduct our normal activities in the areas of transport and veterinary inspections. This also holds true for the EU side. Together with the Commission we are trying to find ways to mitigate some of the negative effects of the pandemic on our ability to conduct full-fledged inspections.

ESA continues to monitor and evaluate national measures in a variety of fields. Our goal is to ensure adherence to the EEA Agreement, while permitting maximum flexibility for our States to respond to the crisis. We are assisting the three countries when it comes to the application of the guidelines, as well as taking concrete decisions pertaining to such application.

The pandemic has brought us a new sense of perspective concerning the world we live in and share. ESA continues to give priority to the implementation of the Paris accord on **climate change**. As things stand, we are on track to meeting the December deadline. Again, we are grateful for the excellent cooperation with Iceland and Norway, the Commission, certain EU member states and a group of experts who have shared their knowledge. Liechtenstein is not part of this particular work but is dedicated to implementing the Paris accord.

The lockdown has brought new ways of working with our partners. For the first time in ESA's 26-year history, our package meetings are being done remotely. And in June we took part in the first ever EFTA Court hearing held by remote teleconference. I am sure that the lessons learned from handling the pandemic will have a bearing on how we organize our post pandemic work. We have been taking stock over the past months and will be conducting a strategic evaluation later this month.

No doubt this pandemic will bring some **improvements to our future working methods**. But still - as months go by – we see and feel that nothing can replace being together in person. This holds true not only for our social well-being, but also in terms of work efficiency. Everyone at ESA looks forward to moving into our new EFTA building hopefully come end of March next year.

I have noted that all of you taking part in this seminar come from different backgrounds with different interests. To ensure transparency and accessibility we have established a dedicated page on our **new website** to keep stake-holders updated on pandemic related work. We have collated information concerning the action we and the EEA EFTA states have taken in response to Covid-19. For more detailed information on the work of ESA, please visit our website.

In closing let me underline, that at ESA we are committed to continue playing our part to make the Internal Market function well, also in pandemic times.

I thank you.