

EUROPEAN ECONOMIC AREA

JOINT COMMITTEE

15 March 2023

3 Annexes

Ref. 22-3746

Annual Report of the EEA Joint Committee 2022 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 2022. Annex I contains a review of the activities of the EEA Joint Subcommittees under the EEA Joint Committee. Annex II contains an overview of the state of decision making in 2022. Annex III presents a list of EEA Joint Committee Decisions (JCDs) adopted in 2022.
2. The EEA Joint Committee met eight times in 2022. In addition to regular meetings, two written procedures took place in 2022, one to incorporate 13 COVID-19 related acts, and one urgent act on slot allocation in the field of transport. In total, the EEA Joint Committee adopted 354 decisions incorporating 628 legal acts in 2022, including:
 - Decisions No 6 to 9/2022, incorporating the Tobacco Products Directive and 10 related acts,
 - Decision No 19/2022 on the posting of workers,
 - Decisions No 31 to 40/2022, incorporating the Organic Production Package, consisting of 27 acts in total,
 - Decision No 49/2022 on the approval and market surveillance of motor vehicles and their trailers,
 - Decision No 50/2022 on type-approval requirements for motor vehicles,
 - Decision No 55/2022 on the type-approval requirements for motor vehicles and their trailers,
 - Decision No 63/2022 setting up rules and procedures in safety assessment of clinical trials,
 - Decision No 76/2022 on covered bonds in the field of financial services,

- Decisions No 79/2022 and 289/2022 on providing temporary relief from the slot utilisation rules at Union airports
- Decision No 80/2022 amending thresholds in the field of public procurement,
- Decision No 84/2022 on the landfill of waste,
- Decision No 135/2022 incorporating the 2010 Energy Performance of Buildings Directive,
- Decision No 136/2022 exempting minors from the acceptance period of vaccination certificates issued in the EU Digital COVID Certificate format,
- Decision No 138/2022 on Sustainable Finance Disclosure and taxonomy,
- Decision No 145/2022 incorporating the 2nd Banking Recovery and Resolution Regulation (BRRD II),
- Decision No 157/2022 establishing a European Maritime Single Window Environment,
- Decision No 163/2022 revising Protocol 4 to the EEA Agreement, on Rules of Origin,
- Decision No 166/2022 establishing a general plan for crisis management in the field of the safety of food and feed,
- Decision No 176/2022 on the calculation of the weight of waste electrical and electronic equipment (WEEE),
- Decision No 189/2022 incorporating the Data Roaming Regulation,
- Decision No 196/2022 amending the General Block Exemption Regulation in the field of state aid,
- Decision No 197/2022 on supplementary protection certificate for medicinal products,
- Decisions No 206/2022 and 295/2022 regarding transitional measures for certificates of inspection issued in Ukraine,
- Decision No 208/2022 prolonging the EU Digital COVID Certificate,
- Decision No 224/2022 incorporating a framework Regulation in the field of statistics,
- Decision No 226/2022 establishing the InvestEU Programme,
- Decision No 267/2022 on the monitoring and reporting of data relating to CO₂ emissions from passenger cars,
- Decision No 271/2022 allowing for participation in the European Year of Youth 2022,

- Decisions No 241/2022 and 272 to 276/2022 incorporating in total 37 acts on wine and spirit drinks,
 - Decision No 285/2022 on rail passengers' rights and obligations,
 - Decision No 288/2022 on the promotion of clean and energy-efficient road transport vehicles,
 - Decision No 323/2022 establishing a Common Training Test for ski instructors,
 - Decision No 334/2022 establishing a Single Digital Gateway,
 - Decision No 337/2022 incorporating the Audio-visual Media Services Directive.
3. The biannual Internal Market Scoreboard, published by the EFTA Surveillance Authority (ESA) in November 2022 and reflecting the state of play on 31 May 2022, shows that the average transposition deficit for directives for the EEA EFTA States increased from 0.9% to 1.3% since the December 2021 Scoreboard – the highest since 2014. In this period, the deficit of Iceland increased from 1.6% to 2%, the deficit of Norway increased from 0.8% to 1.3% and the deficit of Liechtenstein increased from 0.4% to 0.7%.¹

Incorporation of acquis into the EEA Agreement

4. In 2022, 628 legal acts were incorporated into the EEA Agreement, which is 5% less than in 2021, when 662 legal acts were incorporated. In 2022, 689 legal acts were identified by the EFTA side as possibly being EEA relevant, which is 4% less than in 2021, when 723 legal acts were identified as possibly being EEA relevant.
5. On 16 November 2022, when the monitoring list was run for the last time in 2022, there were 612 legal acts awaiting incorporation where the compliance date in the EU had passed, compared to 589 acts in November 2021. This represents an increase of 4%.
6. On 31 December 2022, the number of JCDs awaiting the fulfilment of constitutional requirements in the EEA EFTA States for more than six months increased to 31, compared to 22 on 31 December 2021. On 31 December 2022, 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 55, compared to 43 on 31 December 2021.

¹ From 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.

EEA EFTA participation in EU agencies and programmes

7. Based on the EEA Agreement, the EEA EFTA States participated in 13 EU programmes and 19 regulatory agencies. Furthermore, the EEA EFTA States participated in various programmes falling under the competencies of six executive agencies (listed in Annex I).

Decision shaping

8. In 2022, the EEA EFTA States submitted six EEA EFTA Comments on the following subjects (in 2021 there were eight EEA EFTA Comments submitted):
 - EEA EFTA Comment on the Commission's legislative package on Anti-Money Laundering and Countering the Financing of Terrorism,
 - EEA EFTA Comment on the Commission Proposal for a Regulation on general product safety,
 - EEA EFTA Comment on the European Green Bonds Regulation,
 - EEA EFTA Comment on the Proposal for a Regulation establishing the Union Secure Connectivity Programme for the period 2023-2027,
 - EEA EFTA Comment on the revised Construction Products Regulation,
 - EEA EFTA Comment on a harmonised front-of-pack nutrition label.
9. The Commission provided feedback on the EEA EFTA Comments in the relevant EEA EFTA Working Groups.

Key outstanding issues

10. The discussions on the following key issues had not been concluded by 31 December 2022 (further information is found in Annex I):
 - Directive 2012/27/EU on energy efficiency,
 - Regulation (EU) 2017/460 establishing a network code on harmonised transmission tariff structures for gas; Regulation (EU) 2017/459 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013; Regulation (EU) No 312/2014 establishing a Network Code on Gas Balancing of Transmission Networks and Regulation (EU) 2015/703 establishing a network code on interoperability and data exchange rules,
 - Directive (EU) 2018/844 amending the energy performance of buildings directive and the energy efficiency directive,

- 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),
- Regulation (EC) No 1829/2003 on genetically modified food and feed (GM Food and Feed),
- Regulation (EU) 2019/1020 on market surveillance and product compliance,
- Delegated Regulation (EU) 2019/2122 on personal consignments,
- Regulation (EU) 2016/1199 on helicopter offshore operations (HOFO),
- Regulation (EU) 2019/1149 establishing a European Labour Authority (ELA).

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 in Bergen, Norway, on 10-11 May 2022. The Committee adopted resolutions on:

- The Social Dimension of the Fit For 55 Package,
- The Challenges and Opportunities of Greater Use of Artificial Intelligence in Working Life.

13. The EEA Joint Parliamentary Committee held a meeting in Oslo, Norway, on 23-25 May 2022, where it adopted a resolution on:

- The Annual Report of the EEA Joint Committee on the Functioning of the EEA Agreement in 2021.

14. The EEA Joint Parliamentary Committee also held a meeting in Strasbourg, France, on 19-20 October 2022.

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

EEA Financial Mechanism

16. The Agreement on the EEA Financial Mechanism and the Agreement on the Norwegian Financial Mechanism for the period 2014-2021 amount to total contributions of EUR 1548.1 and 1253.7 million, respectively.

17. The period of eligibility of expenditures in projects under both Mechanisms runs until April 2024. By May 2021, 97 programmes had been approved by the donors and entered implementation.
18. Negotiations on a new period of the financial contribution of the EEA EFTA States to reduce the economic and social disparities in the EEA were launched on 16 June 2022.

EUROPEAN ECONOMIC AREA

JOINT COMMITTEE

Annex I to ref. 22-3746

ACTIVITIES OF EEA JOINT SUBCOMMITTEES IN 2022

FREE MOVEMENT OF GOODS

General

1. In 2022, 387 legal acts in the areas covered by Subcommittee I were incorporated into the EEA Agreement.

Veterinary issues, feedingstuffs and phytosanitary matters

2. 93 legal acts were incorporated in the veterinary and phytosanitary field, including 2 acts on transitional measures for certificates of inspection issued in Ukraine.
3. Additionally, 108 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. Regulation (EU) 2018/848 on organic production and labelling of organic products was incorporated into the EEA Agreement on 4 February 2022 by the EEA Joint Committee Decision No 31/2002. The act entered into force in all EEA EFTA Countries on 16 June 2022.

Technical regulations, standards, testing and certification

5. 251 legal acts were incorporated into Annex II to the EEA Agreement, of which most related to foodstuffs, dangerous substances and wine and spirit drinks.
6. 93 acts in the foodstuffs area were incorporated in 2022. Additionally, one act was implemented pursuant to the simplified procedure.

7. The Decision incorporating Directive 2014/40/EU on tobacco products along with 10 supplementing acts was adopted on 4 February 2022, but it had not yet entered into force by the end of 2022 due to constitutional requirements.
8. In the field of motor vehicles, 15 acts were incorporated in 2022. The JCD incorporating Regulation (EU) 2018/858 on the approval and market surveillance of motor vehicles and their trailers was adopted on 18 March 2022, but it had not yet entered into force by the end of 2022 due to constitutional requirements. 19 acts were incorporated into the EEA Agreement in the field of medicinal products and medical devices in 2022, 46 acts on Chemicals, 21 on Plant Protection Products and 50 acts on Wine and Spirit Drinks (thereof 22 acts were included in Protocol 47 EEA).

Energy

9. Two acts were incorporated into the EEA Agreement in the field of energy, including Directive 2010/31/EU on the energy performance of buildings. Nine further acts were submitted to the Secretariat-General during 2022, including eight acts on ecodesign. The EFTA Energy Working Group held three Informal Joint Meetings with the Directorate-General for Energy to discuss acts awaiting incorporation.
10. The EFTA Working Group on Energy Matters continued discussions both internally and with the Directorate-General for Energy on the incorporation of important files under the Clean Energy Package, including the Energy Efficiency Directive 2012/27/EU and the amending Directive (EU) 2018/2001, the Governance Regulation (EU) 2018/1999, the ACER Regulation (EU) 2019/942, the Electricity Regulation (EU) 2019/943 and the Electricity Directive (EU) 2019/944.

State aid

11. The JCD incorporating Regulation (EU) 2021/1237 amending the General Block Exemption Regulation by declaring certain categories of aid compatible with the internal market was adopted on 10 June 2022.

FREE MOVEMENT OF CAPITAL AND SERVICES

12. In 2022, 134 legal acts in the areas covered by Subcommittee II were incorporated into the EEA Agreement.

Financial services

13. In 2022, 83 acts in the field of financial services were incorporated into the EEA Agreement. During 2022, the EFTA Task Force on Financial Services met internally

and with representatives from DG FISMA and the Secretariat-General of the European Commission at several meetings, in order to progress at expert level on a number of important draft Joint Committee Decisions.

14. Among major legal instruments in the field of Financial Services incorporated in 2022 are the second Banking Recovery and Resolution Regulation (BRRD II), regulations on covered bonds and acts on sustainable finance disclosure and taxonomy.

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

15. In total, 14 legal acts were incorporated into the EEA Agreement in this field in 2022. These included Regulation (EU) 2022/612 on Data Roaming and the Audiovisual Media Services Directive (EU) 2018/1808.
16. The EEA EFTA experts have continued to work assessing the Digital Services Act and the Digital Markets Act, as well as the proposals for a Regulation on Artificial Intelligence and a European Digital Identity. They also made progress on the incorporation of the NIS 1 Directive, the Cybersecurity Act and the Cybersecurity Competence Centre Regulation, as part of the ‘Cybersecurity Package’.

Transport

17. In the field of transport, 33 legal acts were incorporated into the EEA Agreement in 2022. Two of these acts were related to the COVID-19 pandemic, of which one was processed by urgent procedure.
18. Regulation (EU) 2022/2038, which was incorporated into the EEA Agreement by a special written procedure on 16 November 2022, provides temporary measures due to the uncertainties following pandemic, including a temporary waiver allowing air carriers to maintain their slot series if demonstrated that they have operated their slot series for at least 75% of the time during the scheduling period.
19. Discussions continued between the EEA EFTA States and the EU on the 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) and the related acts in the EASA Package, as well as on Regulation (EU) 2016/1199 on helicopter offshore operations (HOFO), and also continued on 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).

FREE MOVEMENT OF PERSONS

20. In 2022, 5 legal acts were incorporated into the EEA Agreement in the area covered by Subcommittee III. The incorporated legislation covered two acts regarding recognition of professional qualifications, two Administrative Commission Decisions on the coordination of social security and one decision on the postponement of deadlines due to the COVID-19 pandemic. The EFTA Working Group on Free Movement of Persons, Employment and Social Policy discussed - both internally and with the European Commission - the incorporation of Regulation (EU) 2019/1157 of the European Parliament and of the Council of 20 June 2019 on strengthening the security of identity cards of Union citizens and of residence documents issued to Union citizens and their family members exercising their right of free movement.

HORIZONTAL AND FLANKING POLICIES

21. In 2022, 102 legal acts were incorporated into the EEA Agreement in the areas covered by Subcommittee IV.

Budgetary matters – programmes and agencies

22. The proportionality factor was 2.70% in 2022, compared to 2.51% in 2021. Through the budgetary procedure, it was agreed that 25 EEA EFTA national experts would be seconded to the various Directorates-General within the European Commission that manage EU programmes and activities.

23. In 2022 EEA EFTA States participated and contributed to the following programmes:

- Horizon Europe
- European Defence Fund
- Digital Europe
- Life
- Erasmus+
- European Solidarity Corps
- ESF+/EaSI
- Single Market Programme
- Union Civil Protection Mechanism/RescEU
- European Space Programme
- Creative Europe
- EU4Health
- InvestEU

30. In 2022, EEA EFTA States participated in 19 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)
- European Union Agency for the Space Programme (EUSPA)

31. In 2022, EEA EFTA States participated in various programmes falling under the competencies of the following six executive agencies:

- European Innovation Council and Small and Medium-sized Enterprises Executive Agency (EISMEA)
- European Education and Culture Executive Agency (EACEA)
- European Climate, Infrastructure and Environment Executive Agency (CINEA)
- European Research Council Executive Agency (ERCEA)
- Research Executive Agency (REA)
- European Health and Digital Executive Agency (HaDEA)

Environment

32. In the field of the environment, 43 legal acts were incorporated into the EEA Agreement in 2022, including Implementing Decision 2019/2193 on waste electrical and electronic equipment (WEEE) and Directive (EU) 2018/850 on the landfill of waste.

33. The EEA EFTA experts continued following the issues relating to the European Green Deal and the Fit for 55 Package closely and discussed with their counterparts in DG Environment and DG Climate Action.

Public Health

34. In 2022, 35 acts were incorporated into the EEA Agreement in the field of public health, all concerning the EU Digital COVID Certificate system. 28 of these acts are implementing decisions establishing equivalence of issuance of COVID certificates from third countries.

Health and safety at work and labour law

35. In the field of health and safety at work and labour law, 4 legal acts were incorporated into the EEA Agreement in 2022, including Directive (EU) 2018/957 concerning the posting of workers.

36. Experts continued examining several legislative files. These included Regulation (EU) 2019/1149 establishing a European Labour Authority, Regulation (EU) 2019/127 establishing EUROFOUND, Directive (EU) 2019/1152 on transparent and predictable working conditions, Directive (EU) 2019/1937 on the protection of persons reporting on breaches of Union law, and Directive (EU) 2022/2041 on adequate minimum wages in the European Union. The EEA EFTA experts assessed the proposal on improving working conditions in platform work.

LEGAL AND INSTITUTIONAL MATTERS

37. No meeting of the Joint Subcommittee V took place in 2022.