

# **EUROPEAN ECONOMIC AREA**

## **JOINT COMMITTEE**

15 March 2024

3 Annexes

Ref. 24-280

### **Annual Report of the EEA Joint Committee 2023 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 2023. 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 2023. Annex III presents a list of EEA Joint Committee Decisions (JCDs) adopted in 2023.
2. The EEA Joint Committee met eight times in 2023. In addition to regular meetings, three written procedures took place in 2023. In total, the EEA Joint Committee adopted 342 decisions incorporating 624 legal acts in 2023, including:
  - Decision No 20/2023 on an amendment to adaptation to 32014R0909 (Central Securities Depository - Liechtenstein),
  - Decision No 21/2023 on network and information systems across the Union (NIS1),
  - Decision No 22/2023 on information and communications technology cybersecurity certification (Cybersecurity Act),
  - Decision No 27/2023 on the European Cybersecurity Industrial, Technology and Research Competence Centre,
  - Decision No 28/2023 on the European Centre for the Development of Vocational Training (Cedefop),
  - Decision No 50/2023 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,

- Decision No 63/2023 on setting up the Radio Spectrum Policy Group and repealing Decision 2002/622/EC,
- Decision No 65/2023 on the technical information necessary for roadworthiness testing of the items to be tested, on the use of the recommended test methods, and establishing detailed rules concerning the data format and the procedures for accessing the relevant technical information,
- Decision No 77/2023 laying down rules on the making available on the market of EU fertilising products,
- Decision No 109/2023 on the European Agency for Safety and Health at Work (EU-OSHA),
- Decision No 114/2023 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency,
- Decisions No 154 and 155/2023 in the field of technical regulations and energy, on ecodesign requirements,
- Decision No 174/2023 on a budget line for social security,
- Decision No 185/2023 on a pilot regime for market infrastructures based on distributed ledger technology,
- Decision No 188/2023 in the field of competition, on the categories of vertical agreements and concerted practices,
- Decision No 240/2023 in the field of telecommunication, on the free flow of data,
- Decision No 245/2023 on marine equipment,
- Decision No 247/2023 amending the list of high-risk third countries with strategic deficiencies,
- Decision No 285/2023 on the abolition of discrimination in transport rates and conditions,
- Decision No 317/2023 on market surveillance and compliance of products,
- Decision No 318/2023 incorporating Commission delegated regulation on the energy performance of buildings,
- Decision No 319/2023 on European Labour Authority (ELA),

- Decision No 326/2023 on common rules and standards for ship inspection,
  - Decision No 327/2023 on European Maritime Safety Agency (EMSA),
  - Decisions No 332/2023 and 333/2023 on copyright and related rights,
  - Decision No 334/2023 on the EU Emission Trading System for aviation,
  - Decision No 335/2023 on the EU Emission Trading System for maritime transport and stationary installations.
3. The biannual Internal Market Scoreboard, published by the EFTA Surveillance Authority (ESA) in October 2023 and reflecting the state of play on 11 June 2023, shows that the average transposition deficit for directives for the EEA EFTA States decreased from 1.3% to 1.1% since the November 2022 Scoreboard. In this period, the deficit of Iceland decreased from 2% to 1.9%, the deficit of Norway remained at 1.3% and the deficit of Liechtenstein decreased from 0.7% to 0.1%.<sup>1</sup>

### **Incorporation of acquis into the EEA Agreement**

4. In 2023, 624 legal acts were incorporated into the EEA Agreement, which is four less than in 2022, when 628 legal acts were incorporated. In 2023, 789 legal acts were identified by the EFTA side as possibly being EEA relevant, which is 14.5% more than in 2022, when 689 legal acts were identified as possibly being EEA relevant.
5. On 15 November 2023, when the monitoring list was run for the last time in 2023, there were 542 legal acts awaiting incorporation where the compliance date in the EU had passed, compared to 612 acts in November 2022. This represents a decrease of 11.4%.
6. On 31 December 2023, the number of JCDs awaiting the fulfilment of constitutional requirements in the EEA EFTA States for more than six months increased to 32, compared to 31 on 31 December 2022. On 31 December 2023, 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 79, compared to 55 on 31 December 2022.

### **EEA EFTA participation in EU agencies and programmes**

7. Based on the EEA Agreement, the EEA EFTA States participated in 13 EU programmes and 17 regulatory agencies. Furthermore, the EEA EFTA States participated in various

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<sup>1</sup> 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.

programmes falling under the competencies of six executive agencies (listed in Annex I).

## **Decision shaping**

8. In 2023, the EEA EFTA States submitted seven EEA EFTA Comments on the following subjects (in 2022 there were six EEA EFTA Comments submitted):
  - EEA EFTA Comment on the Proposal for a Regulation establishing a Single Market Emergency Instrument and repealing Council Regulation (EC) 2679/98,
  - EEA EFTA Comment on the Commission Proposal for a Regulation of the European Parliament and of the Council establishing a common framework for media services in the internal market (European Media Freedom Act) and amending Directive 2010/13/EU,
  - EEA EFTA Comment on the proposal for a regulation of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) 168/2013, (EU) 2018/858, 2018/1724 and (EU) 2019/102,
  - EEA EFTA Comment on the Maritime Safety Package,
  - EEA EFTA Comment on the Revised Driving Licence Directive,
  - EEA EFTA Comment on the proposal for a directive on common rules promoting the repair of goods,
  - EEA EFTA Comment on the proposal for a Regulation of the European Parliament and of the Council on establishing a framework of measures for strengthening Europe's net-zero technology products manufacturing ecosystem (Net Zero Industry Act)
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 files were still ongoing by 31 December 2023 (further information is found in Annex I):

### *Energy:*

- 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; Commission Regulation (EU) 2016/631 establishing a network code on requirements for grid connection of generators; Regulation (EU) No 1227/2011 on wholesale energy market integrity and transparency (REMIT); Commission Regulation (EU) 2017/2196 establishing a network code on electricity emergency and restoration,

*State Aid:*

- Council Regulation (EU) No 734/2013 amending Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty,

*Food Chain:*

- Regulation (EC) No 1829/2003 on genetically modified food and feed (GM Food and Feed); Delegated Regulation (EU) 2019/2122 on personal consignments,

*Transport:*

- Regulation (EU) 2016/1199 on helicopter offshore operations (HOFO); Directive (EU) 2015/413 of the European Parliament and of the Council of 11 March 2015 facilitating cross-border exchange of information on road-safety-related traffic offences (CBE Directive),

*Competition Policy:*

- Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market (“ECN+ Directive”); Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union,

*Financial Services:*

- Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (recast) - DGS III,

*Environment:*

- Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC,

*Statistics:*

- Regulation (EU) 2016/152 of the European Parliament and of the Council 26 October 2016 on European statistics on natural gas and electricity prices and repealing Directive 2008/92/EC; Commission Implementing Regulation (EU) 2018/1799 of 21 November 2018 on the establishment of a temporary direct statistical action for the dissemination of selected topics of the 2021 population and housing census geocoded to a 1 km<sup>2</sup> grid.

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 Stockholm, Sweden, on 14-15 March 2023. The Committee adopted resolutions on:

- Energy resilience in the EEA in view of the geopolitical landscape,
- Future cooperation of the European Political Community

13. The EEA Joint Parliamentary Committee held two meetings in 2023. On 15-16 March 2023 in Strasbourg, France, and on 15 December 2023 in Vaduz, Liechtenstein.

### **EEA Financial Mechanism**

14. 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.

15. 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.

16. Negotiations on a new period of the financial contributions of the EEA EFTA States to reduce the economic and social disparities in the EEA were launched on 16 June 2022. On 30 November 2023, agreement was reached on negotiators' level on the EEA Financial Mechanism 2021-2028 between the Commission and EEA EFTA States as well as on the parallel Norwegian Financial Mechanism, for the same period, between the Commission and Norway. At the same date, agreements at negotiator's level were also reached between the Commission and Norway and Iceland, respectively, on market access for fish and marine products over the period 2021-2028. In this context, the Commission and Iceland agreed to carry out a joint review of the trade regimes between the European Union and Iceland and explore possible opportunities to further liberalise trade between them, agreeing that the joint review should be completed before the end

of the period of operation of the EEA Financial Mechanism 2021-2028. All sides are processing the agreed texts in accordance with their respective procedures.

# **EUROPEAN ECONOMIC AREA**

## **JOINT COMMITTEE**

Annex I to ref. 24-280

### **ACTIVITIES OF EEA JOINT SUBCOMMITTEES IN 2023**

#### **FREE MOVEMENT OF GOODS**

##### **General**

1. In 2023, 388 legal acts in the areas covered by Subcommittee I were incorporated into the EEA Agreement.

##### **Veterinary issues, feedingstuffs and phytosanitary matters**

2. 40 legal acts were incorporated in the veterinary and phytosanitary field.
3. Additionally, 87 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.

##### **Technical regulations, standards, testing and certification**

4. 266 legal acts were incorporated into Annex II to the EEA Agreement, of which most related to foodstuffs, dangerous substances and wine and spirit drinks.
5. 101 acts in the foodstuffs area were incorporated in 2023. Additionally, 87 act/s was/were implemented pursuant to the simplified procedure.
6. In the field of motor vehicles, 11 acts were incorporated in 2023. 20 acts were incorporated into the EEA Agreement in the field of medicinal products and medical devices in 2023, 56 acts on Chemicals, 40 on Plant Protection Products and 12 acts on Wine and Spirit Drinks (thereof 8 acts were included in Protocol 47 EEA).

##### **Energy**

7. 13 acts were incorporated into the EEA Agreement in the field of energy, including in the field of technical regulations and energy, on ecodesign requirements as well as the Commission delegated regulation on the energy performance of buildings (JCD 318/2023). The EFTA Energy Working Group held 4 Informal Joint Meetings with the Directorate-General for Energy to discuss acts awaiting incorporation.
8. 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, Directive (EU) 2018/844 on the energy performance of buildings, Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources and the Electricity Directive (EU) 2019/944, as well as Gas and Electricity Network Codes Regulations, Regulation (EU) 1227/2011 on wholesale energy market integrity and transparency (REMIT), Regulation (EU) 2019/941 on risk-preparedness in the electricity sector and Regulation (EU) 2019/942 establishing a European Union Agency for the Cooperation of Energy Regulators.

#### **State aid**

9. The JCD incorporating Regulation (EU) 2022/2473 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty was adopted on 8 December 2023.
10. Council Regulation (EU) No 734/2013 of 22 July 2013 amending Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty has not yet been incorporated into the EEA Agreement.

#### **FREE MOVEMENT OF CAPITAL AND SERVICES**

11. In 2023, 180 legal acts in the areas covered by Subcommittee II were incorporated into the EEA Agreement.

#### **Financial services**

12. In 2023, 65 acts in the field of financial services were incorporated into the EEA Agreement. During 2023, the EFTA Task Force on Financial Services met internally at 5 meetings and twice with representatives from DG FISMA and the Secretariat-General of the European Commission, in order to progress at expert level on a number of

important draft Joint Committee Decisions. The substantial backlog in the area of financial services remains the highest comparing to the other sectors.

13. Among important JCDs in the field of Financial Services adopted in 2023 are the Decision No 20/2023 on an amendment to adaptation to 32014R0909 (Central Securities Depository - Liechtenstein), Decision No 185/2023 on a pilot regime for market infrastructures based on distributed ledger technology and Decision No 247/2023 amending the list of high-risk third countries with strategic deficiencies.

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

14. In total, 9 legal acts were incorporated into the EEA Agreement in this field in 2023. These included NIS 1 Directive, the Cybersecurity Act and the Cybersecurity Competence Centre Regulation, as part of the ‘Cybersecurity Package’ and Radio Spectrum Policy Group.
15. 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.

### **Transport**

16. In the field of transport, 105 legal acts were incorporated into the EEA Agreement in 2023, including on common rules in the fields of civil aviation and establishing a European Union Aviation Safety Agency (EASA), on common rules and standards for ship inspection survey organizations and related acts (the Ship Inspection Package), and on the European Maritime Safety Agency (EMSA).
17. Discussions continued between the EEA EFTA States and the EU on Regulation (EU) 2016/1199 on helicopter offshore operations (HOFO).

### **FREE MOVEMENT OF PERSONS**

18. In 2023, 5 legal acts were incorporated into the EEA Agreement in the area covered by Subcommittee III, including 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**

19. In 2023, 47 legal acts were incorporated into the EEA Agreement in the areas covered by Subcommittee IV.

### **Budgetary matters – programmes and agencies**

20. The proportionality factor was 2.93% in 2023, compared to 2.7% in 2022. Through the budgetary procedure, it was agreed that 23 EEA EFTA national experts would be seconded to the various Directorates-General within the European Commission that manage EU programmes and activities.

21. In 2023, EEA EFTA States participated and contributed to the following 13 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 2023, EEA EFTA States participated in 17 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 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 Union Agency for the Space Programme (EUSPA)

31. In 2023, 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, 29 legal acts were incorporated into the EEA Agreement in 2023, including EU Emission Trading System for aviation, and maritime and stationary installations, which came into force simultaneously across the EEA on 1 January 2024.

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 2023, 2 acts were incorporated into the EEA Agreement in the field of public health,

## **Health and safety at work and labour law**

35. In the field of health and safety at work and labour law, 3 legal acts were incorporated into the EEA Agreement in 2023, including the European Labour Authority and the European Centre for the Development of Vocational Training (Cedefop).

36. Experts continued examining several legislative files. These included 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. The EEA EFTA experts assessed the proposal on improving working conditions in platform work. EU and EEA EFTA side held exchanges on incorporation of the Directive (EU) 2022/2041 on adequate minimum wages in the European Union.

## **LEGAL AND INSTITUTIONAL MATTERS**

37. Two meetings of the Joint Subcommittee V took place in 2023. The meeting on 3 May 2023 served to relaunch the Joint Subcommittee V meetings since the last meeting held in 2014. The second Joint Subcommittee V meeting on 3 October 2023 was dedicated to the topics of institutional adaptations and geographical scope of the EEA Agreement.