

# The Committee's main findings, assessments and recommendations

## 1.1 Introduction

Norway's affiliation with the European Union (EU) has been a key issue in Norwegian public debate for more than half a century. We are undeniably part of Europe, both geographically and culturally. Historically, there is also no doubt that Norway has long been closely connected to Europe in terms of trade, defence and security. Unlike most of our Nordic neighbours and other European countries, Norway is not an EU Member State. Rather, we are connected to the EU via the European Economic Area (EEA) Agreement, the main objective of which is to strengthen trade and economic relations with European countries. January 2024 marked thirty years since the EEA Agreement entered into force. Through the EEA – and our other cooperation agreements with the EU – Norway continues to have one foot in and one foot out of the EU.<sup>1</sup>

The world, Europe and Norway have changed drastically over the past fifty years. Domestically, we have long been on an upward trajectory. We have enjoyed major economic growth and, for the most part, high levels of employment and low levels of unemployment. With the collapse of the Soviet Union in the 1990s, the iron curtain that had separated Western and Eastern Europe fell. Since 2004, 11 countries from the former Eastern Bloc have joined the EU. However, the past decade has seen a negative change of pace in many respects. The jubilation over the post-Cold War thaw has been replaced by uncertainty and unrest. New and major concerns have emerged, including the climate crisis, the global pandemic, the energy crisis, refugee influxes, the emergence of right-wing extremist movements, unstable and undemocratic major powers – as well as war in our region.

The major and dramatic changes occurring in and around Europe over the past decade are an important backdrop for this report. It is difficult to foresee the consequences of these changes, even in the short and medium term – including their impact on the EEA Agreement and Norway's cooperation with the EU. Economic globalisation is on the decline, and the major powers are using powerful means to safeguard their interests, both regionally and globally. Authoritarian states now pose a greater threat to democratic neighbouring countries and international peace and security. In 2022, Russia launched a full-scale invasion of Ukraine. As a result of this war, the EU has also changed course.

In recent years, the EU has rapidly developed policy tools that combine trade and investment with security considerations. While EU cooperation was once mainly a matter of developing a well-functioning single market among its Member States, it is now increasingly about how the EU, as a community, ought to address the new concerns and defend the common interests of the Member States. The aim is to safeguard European interests, preferably in partnership with like-minded countries, but if necessary, on its own. In this report, we highlight how this makes European cooperation more important for Norway, but also gives rise to new and challenging issues.

The EU's primary task is to solve problems that each individual Member State is unable to solve unilaterally. The European Green Deal has dominated the EU's agenda in recent years and not only makes climate considerations a premise for policy-making in several areas, but also entails a restructuring of the EU's economic thinking. The aim is for green industry and

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<sup>1</sup>Cf. NOU 2012: 2.

energy, sustainability and the circular economy to help create new jobs and boost economic growth. The green transition in the EU connects policy areas that are both within and outside the scope of the EEA Agreement. EU Member States jointly make policy decisions on the future conditions for economies and societies at large. At the same time, there are political concerns related to the potential economic and social impacts of the green transition. Norway, too, will face difficult choices in the years ahead, both unilaterally and in cooperation with its European neighbours and the rest of the world.

The EU is rapidly changing. This has presented challenges for this report, as we are trying to describe the consequences of a swift and ongoing development. Since the mid-2010s, the EU has placed greater emphasis on reducing the security risks associated with having an open market economy. New instruments have been established to protect the economic security of the EU, while at the same time enhancing the competitiveness of the single market through an active European business and industrial policy. It remains to be seen what specific impacts the EU's change of course will have on Norway and the EEA. These developments increase the demands on Norwegian politicians to chart a course for Norway's cooperation with the EU, both within and outside the EEA framework. Strategic governance of Norway's European policy going forward will be a prerequisite for achieving this.

European policy is a matter of pragmatic policy choices. Despite major changes in our region over the past decade, the broad thrust of Norwegian public debate on Norway and the EU has largely remained unchanged. In a way, the EEA Agreement has served as a lightning rod for the major and at times harrowing EU debates that might otherwise have become more prominent. Although there is scepticism about the EEA among both committed proponents and opponents of Norwegian EU membership, the agreement has enjoyed robust support among the majority of elected representatives as well as the general public over the past 30 years.

EEA cooperation is nevertheless a contentious issue. The EEA Agreement is by far Norway's most important and comprehensive international agreement, and it also affects us domestically in a number of key sectors of society. This gives rise to continuous debates on larger and smaller issues related to the EEA. Many issues are complex and challenging, and discussions about individual issues often drift into more principled and overarching debates on Norway's European policy. This makes for a hostile environment for debate. Many people, both politicians and the general public, shy away and leave the floor to experts and enthusiasts. It is a cause for concern when issues that affect so many are discussed by so few.

This is what has necessitated a new report on Norway's experiences with the EEA. The Committee's aim is for the report to provide an updated knowledge base for Norwegian decision-makers. And equally important, that it contributes to a knowledge-based debate on EEA-related issues – and garners maximum participation. The report is written at a time when the world has become more dangerous and unpredictable. This increases the need for a broad public debate on how the EEA can safeguard Norwegian interests and also on our relationship with the EU – and EU Member States – in a broader sense. Norway and the EU share a community of values and laws, as well as common interests in many domains. This community is becoming increasingly important in a world where the basis for international cooperation is being challenged by authoritarian movements.

The main question in the report is what EEA cooperation means for Norway. The Committee has not been asked to look into, and has therefore not assessed or taken a position on, alternative agreements and forms of affiliation for Norway. Nevertheless, the Committee's mandate is extensive (see Chapter 2), and ranges from general issues related to democracy, scope of action and the framework of the EEA Agreement, to specific policy areas such as

climate change and the environment, energy, the economy, industrial policy, working life, preparedness and foreign and security policy. We have also examined the experiences of certain other countries with other types of agreements with the EU.

The Committee has not had the capacity and resources to add areas that might have been both interesting and relevant to examine beyond those mentioned in its mandate. Thus, the report provides only cursory descriptions of several sectors of society, but this does not reflect a lack of importance (see Chapter 2). The Committee has also focused on *Norway's* experiences with EEA cooperation. At the same time, it must be emphasised that what applies to Norway in the agreement also applies to Iceland and Liechtenstein. However, in many instances we refer only to *Norway*, even though, strictly speaking, *the EEA/EFTA states* (i.e. Norway, Iceland and Liechtenstein) would be the correct term.

Our mandate has been to examine experiences with the EEA Agreement and other relevant agreements with the EU over the past ten years. The review began in 2022, and Norwegian Official Report (NOU) 2012: 2 *Outside and Inside* has been a key reference and source throughout this work (hereinafter referred to as the *2012 report*). For the sake of simplicity, we often use the term *the last decade/the last ten-year period* in the text to refer to the period from 2012 onwards, even though this period now exceeds a decade.

In this first chapter, we briefly present the Committee's main findings, assessments and recommendations. More detailed descriptions and discussions are provided in the individual chapters.

## 1.2 Developments in the EEA cooperation

Norway's cooperation with the EU is broad and comprehensive, and the EEA Agreement is by far the largest and most important of Norway's agreements with the EU. Participation in the EU's single market is fundamental to EEA cooperation. In many contexts, the EEA Agreement serves as a starting point for further cooperation in several domains. Over the past decade, cooperation with the EU and the Europeanisation of Norway have become both wider and deeper. The EU Member States have chosen to strengthen EU cooperation in order to face new and major societal challenges. This has also affected Norway – through the further development of the EEA Agreement and the other agreements we have with the EU, and through the conclusion of new agreements. Overall, Norway is the country that enjoys the closest cooperation with the EU without being a Member State.

The EEA Agreement grants rights to and imposes obligations on businesses and citizens in a region that currently consists of 30 European countries with a combined population of 450 million. The EEA Agreement's overall objective of including the EEA/EFTA states in the EU single market requires continual updating of the agreement to reflect developments in the EU in the areas it covers. This is what makes the EEA dynamic. The single market is constantly evolving in light of societal developments, technological changes and the political priorities agreed upon by EU governments and the European Parliament. Because of this, the scope of the EEA legislation has increased compared to when the agreement was concluded.

The EEA Agreement must increasingly be viewed in the context of the now almost 100 other agreements that connect Norway to various parts of EU cooperation. The Committee notes that the EU is adopting many new policies that are based on both the regulation of the single market *and* on accommodating new security policy, trade policy or climate and environmental challenges. This makes it more challenging than ever before to distinguish between what ought to be included in the EEA Agreement and what may need to be addressed by other means. The cooperation agreements with the United Kingdom and Switzerland shows that the

EU takes an integrated approach to the various agreements the EU has with countries outside the Union. This also applies to cooperation with Norway.

The EEA Agreement has proved flexible enough to keep pace with developments in EU regulation of the single market over the past decade. With a few exceptions, such as agricultural and fisheries policy, the agreement makes Norway an integral part of the entire EU single market, on equal footing with EU Member States. The EEA Agreement thereby grants Norwegian businesses and workers significantly stronger rights in the EU than a traditional trade agreement, which only provides reciprocal access to specified parts of the states parties' separate markets.

One crucial reason why the EEA Agreement has worked for 30 years is that the states parties, businesses, investors and employees from the EU and EEA/EFTA states have had confidence that the EEA Agreement is complied with and continuously updated, and that the rules are also interpreted and practised identically by Norway and the EU. This confidence is essential in order for the EEA Agreement to function as intended.

See Chapter 4 for a more detailed review of Norway's cooperation with the EU in the period 2012–2023.

### **1.3 Administration and enforcement of the EEA Agreement**

When the EEA Agreement was concluded in 1994, an institutional framework was established to ensure the administration and enforcement of the agreement. The agreement must also be continually updated and monitored in order to function as intended. This has resulted in a two-pillar institutional framework. The EU and EEA/EFTA institutions, respectively, form the two pillars and cooperate via the joint EEA bodies. The Committee believes the EEA Agreement's institutional framework continues to fulfil its intended purpose. At the same time, developments in the EU over the past decade have rendered EEA cooperation more challenging.

Over the past ten years, EEA-related work in government ministries and directorates has become increasingly comprehensive. Some administrative groups describe the pace and scope as a *legislative tsunami*. The Committee wishes to emphasise the importance of government ministries developing sufficient EEA expertise, sharing EEA expertise within the ministries and ensuring better coordination in specific cases.

In addition, new EU rules often impact multiple sectors and may have objectives beyond the regulation of the single market. This makes it more difficult to determine whether new EU legislation should be included in the EEA Agreement. The Committee has noted the Norwegian Government's position that the issue of EEA relevance cannot be assessed until a proposal has been adopted in the EU. This is too late. When determining EEA relevance, policy and legal considerations are weighed, which requires an early clarification of Norwegian interests and Norway's contractual obligations.

EEA cooperation presupposes that the EEA Agreement is continually updated with EEA-relevant EU legislation. In the Committee's opinion, it is a significant challenge that the EEA backlog has grown over the past decade, and Norway must contribute to reducing this lag. The Committee has noted the Minister of Foreign Affairs' statements concerning that the EU is increasingly linking the Norwegian backlog with other policy issues. This may impact Norway's ability to influence other policy areas of importance to Norway. When new legislation is to be incorporated into the EEA Agreement, there may be a need for adjustments to the two-pillar structure of the EEA Agreement, and this may in some cases be a lengthy process. As part of the work on reducing the backlog, the Committee believes that Norway

should explore possibilities for standardising and thereby streamlining the work on EEA adaptations.

The Committee has noted that coordination of EEA-related work is a persistent challenge for Norwegian public administration. At the same time, the need for such coordination has grown as the EU increasingly regulates through cross-sectoral legislative packages. The Committee wishes to emphasise that clear political signals are crucial for effective coordination. Political engagement in EEA-related work will contribute to effective prioritisation between EEA issues, and thereby to a more appropriate use of resources.

The EU has established a number of independent agencies to ensure equal and professionally updated enforcement of EU law, to strengthen networks of national authorities, and to assist the European Commission in the further development of legislation. The agencies are authorised by legal acts adopted by the EU's legislative bodies. In total, Norway is affiliated with 32 of the EU's 48 agencies. The Committee's impression is that Norwegian participation in EU agencies has provided new opportunities to exert influence. As a result of the agencies' influence on the development of EU legislation, participation in the agencies also provides an opportunity to ensure that Norwegian interests are taken into account. In many cases, Norwegian participation in EU agencies is also a prerequisite for the functioning of the EEA Agreement.

An independent surveillance authority is a prerequisite for confidence in the EEA Agreement. The EFTA Surveillance Authority (ESA) is not a legislative body and can neither amend nor adopt new EEA legislation. The EEA Agreement has grown in scope, and ESA has been assigned new tasks involving participation in new EU agencies. It is important for Norwegian interests that ESA's enforcement of the EEA Agreement is in line with the practice of the European Commission, that ESA has sufficient resources to ensure proper case management, and that ESA can continue to prioritise good dialogue with the European Commission and national authorities. Going forward, measures and initiatives that can contribute to harmonised enforcement practices between the EU and EEA/EFTA states should be prioritised.

The social security scandal that rocked Norway in the autumn of 2019 revealed significant weaknesses in the implementation of EEA legislation in Norwegian law, and in the EEA knowledge of the public administration, prosecuting authority and courts. The Committee agrees with the recommendations in the investigation report (NOU 2020: 9), and wishes to emphasise in particular that EEA legal obligations must be implemented in a clear and unambiguous manner to ensure that individual rights are safeguarded.

The EFTA Court is important for ensuring that individuals and enterprises enjoy the rights granted to them by the EEA Agreement, and therefore also for the EU's confidence in the proper functioning of the EEA Agreement. The Court is also important for Norwegian authorities to be able to challenge the EEA legal framework in relation to national policy, without jeopardising the rights that the agreement grants private individuals and the confidence on which the agreement depends.

### *The Committee's recommendations*

- Norway must take responsibility for reducing the considerable backlog of legislation that has entered into force in the EU but has not yet been incorporated into the EEA Agreement.

- As part of reducing the backlog, the Committee believes that states parties should endeavour to establish general guidelines for adaptation to the two-pillar structure, e.g. through an upgrade of Protocol 1 to the EEA Agreement.
- For EU agencies with EEA relevance with the authority to make binding decisions, solutions should preferably be established that place this authority with ESA, in line with the two-pillar structure of the EEA Agreement.
- ESA has been assigned new tasks and has an ever-growing caseload. It is important that ESA is allocated the resources it needs to maintain satisfactory case processing times.
- Norwegian authorities are encouraged to strengthen their dialogue with ESA to help ensure that ESA remains as up-to-date as possible on the situation in Norway.
- The EFTA Court's growing caseload, the increasing complexity of EEA law and escalating specialisation in the EU courts indicate that the EFTA Court should be strengthened.
- More must be done to maintain and further develop EEA knowledge in the central government, directorates, county authorities and municipalities.
- The recruitment of Norwegian national experts to the European Commission should be better organised, and the scheme should, if possible, be extended to additional sectors. National experts should be included in a more long-term plan to bolster EEA expertise in relevant government ministries.

See section 5.7 for a more detailed review of the Committee's main findings, assessments and recommendations.

## 1.4 Scope of action

How much scope of action Norway has within the framework of the EEA Agreement is a controversial topic. This is not surprising. Through the agreement, Norway undertakes to comply with EEA law, and the agreement thereby imposes framework conditions on Norwegian policy in the applicable areas. At the same time, the EEA Agreement sets corresponding limits for actors and authorities in EU Member States. Thus, the agreement is not only binding on Norway, but also on our most important European trading and cooperation partners on the same terms.

It is not always clear what is meant by the term *scope of action* in Norwegian public debate. In order to provide as comprehensive an assessment as possible, the Committee has distinguished between scope of action in the sense of the opportunity to promote Norwegian interests within existing EEA rules, and the opportunity for Norwegian actors to influence policy-making and decisions at the EU level during the political process. Questions related to scope of action are also addressed in most of the report's thematic chapters.

The design of new measures and instruments in Norway, and the practice of Norwegian acts and regulations, must comply with the agreement but this does not necessarily limit the safeguarding of Norwegian interests. Throughout the 30 years of the EEA Agreement, the number of conflicts between Norway and the EU has been low. This is mainly due to the fact that Norway, the EU and EU Member States have similar interests and priorities in many respects.

Early and clear Norwegian input and positions, presented and discussed with the EU before a final decision is made on the matter, is the best starting point for safeguarding Norwegian interests. The opportunities for Norwegian influence will be greatest where our interests coincide with those of other EU states, appear relevant and where no EU states have significant conflicting interests. A prerequisite for promoting Norwegian interests is that these

interests are clarified at an early stage, especially politically. However, it must also be recognised that the EU's decision-making bodies are not open to participation from non-member states.

The Committee wishes to stress the importance of involving as many people as possible at an early stage in order to disseminate information, facilitate input and anchor the process in the *users* of the legislation, both in municipalities and at the various levels of the public administration, as well as the business sector, employers and trade unions and other interest organisations. This could contribute to more flexible incorporation and implementation of legislation and, not least, have a major concrete impact on Norwegian businesses. Closer involvement can also offer non-state actors greater opportunities to influence new EU legislation through their own channels.

The considerable backlog of EEA-relevant legal acts that have not yet been incorporated into the EEA Agreement may give the impression that Norway considers' delayed incorporation into the EEA Agreement as enhancing its scope of action. However, the Committee has noted that there now appears to be less acceptance of this on the part of the EU. The price of such scope of action may be high if it compromises the confidence of investors, enterprises, workers and other stakeholders seeking stable framework conditions.

The Committee has noted that challenges with the implementation of EU and EEA law are also discussed through the Nordic cooperation, and that the European Commission is establishing working or expert groups to assist Member States with implementation, to which representatives from the EEA/EFTA states are also invited. However, this work often takes place prior to the incorporation of the relevant legislation into the EEA, and thereby before Norwegian authorities have identified the issues that may arise in connection with implementation in Norwegian law. As a non-member state, Norway has limited access to the EU's political processes, while during the implementation phase, many of the issues faced by Norwegian authorities are similar to those experienced by EU Member States.

Furthermore, there is a need to enhance the guidance *to* municipalities, and the knowledge *in* municipalities, so that the understanding of EEA law does not unnecessarily restrict the scope of action of local government. Government authorities must also have the courage to provide guidance on difficult subjects. Enhanced knowledge will prevent both breaches of EEA rules and the application of an overly broad interpretation of said rules by municipalities. For EEA rules that only apply in cases with possible cross-border effects, such as the state aid rules and the main rules on the four freedoms, it is important to examine whether the case actually has such cross-border effects.

The requirements of EEA law may in some cases be unclear. The Committee believes it is legitimate and important that Norwegian authorities defend an interpretation of the EEA Agreement that safeguards national political priorities, even when this is challenged in the courts. In cases where the State's interpretation of EEA law is unfavourable to vulnerable citizens, the State should actively contribute to rapid clarification of the interpretative issue in the courts.

### *The Committee's recommendations*

- The Norwegian Government should facilitate greater involvement of stakeholders at an early stage of the EEA-related work.
- Norway should enhance its knowledge of how other countries implement EU rules and consider introducing a system of systematic *neighbour checks* similar to that of Denmark.

- Norwegian authorities should utilise the opportunities available to participate in court proceedings before the EFTA and EU courts in cases that are important to Norwegian interests.
- In cases where Norwegian authorities adopt an interpretation of the EEA Agreement that may be ambiguous, the authorities should normally be transparent in this regard and contribute to the clarification of the issue in the courts.

See section 6.8 for a more detailed review of the Committee’s main findings, assessments and recommendations.

## 1.5 Democracy and rights

Norway’s adherence to the EEA Agreement is firmly rooted in democracy. More than three-quarters of the Storting’s representatives consented to the agreement in 1992. In all subsequent parliamentary elections, parties that have wanted to continue the EEA cooperation have won a clear majority. All Norwegian governments since 1994 have governed on the basis of the EEA Agreement. Each year, the Norwegian Parliament authorises the incorporation of a number of new EU rules in the agreement and continually adopts acts that implement these rules in Norwegian law. Opinion polls also show that a fairly clear and stable majority of the population is in favour of the EEA Agreement.

Norway has chosen to join the single market without becoming an EU Member State. As a result of this, Norway is not represented in the EU’s decision-making processes. At the same time, it grants Norway latitude in areas outside the EEA Agreement. The intergovernmental structure of the EEA model safeguards Norway’s formal political sovereignty. The formal framework and procedures of the EEA Agreement clearly impact Norwegian sovereignty, which is amplified as the scope and depth of the EEA-relevant EU cooperation expands. The Committee agrees with the 2012 report’s summary of the EEA Agreement as a political compromise that has yielded a surplus in benefits, but a deficit in co-determination. The Committee recognises that the broader and deeper European integration becomes, the more demanding this balancing act will become for Norway.

The EEA Agreement guarantees individual Norwegian citizens a considerable degree of freedom of movement throughout the EEA, accompanied by a wide range of economic and social rights. However, unlike citizens of EU Member States, Norwegian citizens do not have their own elected representatives at the EU level. The Committee believes that the lack of political influence is a growing democratic problem. At the same time, the agreement contributes to joint solutions to cross-border problems that could not be solved by Norway unilaterally.

Norway’s affiliation with new EU agencies that have decision-making authority has presented constitutional challenges. Despite the clarifications that have now been provided by the Supreme Court of Norway in the *Railway* opinion and the *ACER* judgement, the Committee agrees with the 2012 report’s recommendation to more closely examine the constitutional procedures for the Storting’s consent to EEA legal acts that involve a transfer of authority. A clarification could ensure that future debates on Norway’s affiliation with EU agencies are more about substantive matters than constitutional law.

Because Norway is not an EU Member State, Norway does not participate in the work of the EU’s political bodies. This characterises the Storting’s consideration of EEA matters. The Storting considers any legal act that requires its consent, meaning that it requires legislative amendment or has budgetary implications or is considered to be particularly important. The Norwegian Government also consults the Storting via the European Committee, but the discussions rarely concern the content of legal acts to be included in the EEA Agreement. The



meetings of the Storting's European Committee and the Minister of Foreign Affairs' six-monthly report on EU/EEA matters contribute to regular discussion and greater transparency regarding EEA cooperation. At the same time, the Committee believes that the Storting should have a greater focus on important EU and EEA matters.

The translation of EU legislation into Norwegian is often delayed. This inhibits the access to, use and implementation of relevant EU legislation. The Committee believes that being able to read EEA law in Norwegian increases the legitimacy and accessibility of the legislation, which in turn contributes to compliance and strengthens the effectiveness of the rules. Transparency is crucial for democracy. One part of making information about EEA-related work more accessible to the public is to modernise and simplify the database for EEA notes.

The EEA Agreement also contains a number of obligations that must be managed and observed at the local level. The lack of Norwegian participation in the formal decision-making processes, particularly in the European Committee of the Regions, also impacts local government. In order to safeguard local democracy in the best possible manner, it is important that national authorities include the local and regional levels of government at an early stage in both the influence and implementation phases of new EEA legislation.

Most pupils complete several years of schooling without gaining a basic understanding of what the EEA Agreement is, how it works and what influence it has on the Norwegian economy and politics. This can only be described as a major shortcoming and a barrier to a realistic and fact-based debate on Norway's relationship with the EU. The Committee believes that both the EU and the EEA should form a much larger part of the curriculum in lower and upper secondary schools.

The solution to many of today's challenges lies in cross-border cooperation. This entails a diminishing of individual countries' self-determination. The EU Member States have endeavoured to respond to this development by creating a greater joint opportunity to exercise authority – what can be referred to as *co-determination*. Norway's association with the EU is a special solution to the same challenge. On the one hand, the EEA Agreement grants Norwegian citizens access to a broad range of economic and social rights. This allows them greater freedom of action and movement. At the same time, they lack the political rights to participate or be represented in the collective European decision-making process that adopts the legislation by which Norwegian citizens are bound. Norwegian citizens have been granted a number of rights via the EEA, but largely lack the right to co-determination.

### *The Committee's recommendations*

- EEA legal acts with content that would normally have been adopted by the Storting should be implemented in the form of legislation, so that they are subject to ordinary parliamentary consideration.
- The need for changes to the constitutional procedures for the Storting's consent to EEA rules that entail a transfer of supervisory authority to ESA or independent EU agencies, should be investigated.
- Annual reports to the Storting should be prepared that summarise the latest policy developments in the EU and current and upcoming issues in the EEA.
- An official Norwegian version of the EEA legal act should be available no later than the publication of the implementing legislation in the Norwegian Law Gazette, alternatively a quality-assured Norwegian version. The possibility of including Norwegian translations in the EU's digital law database EUR-Lex should be explored.
- The database for EEA notes must be kept up to date. It should also be modernised and simplified.

- The EU and EEA should form a much larger part of the curriculum in lower and upper secondary schools.

See section 7.9 for a more detailed review of the Committee’s main findings, assessments and recommendations, as well as additional remarks by the Committee’s minority.

## **1.6 Climate change and the environment**

The transition to a low-emission society is one of the greatest challenges of our time, affecting both how we live and how we are to subsist. Going forward, both the EU and Norway must increase their efforts to contribute to the global climate goal of limiting global warming to between 1.5–2°C. European cooperation on climate change and environmental issues enables more ambitious policies than if individual countries regulate climate and environmental issues separately. Such cooperation enables economies of scale in the form of increased capacity and knowledge, as well as flexibility in implementation for each country. In recent years, the EU has set itself ambitious goals in climate change and environmental policy. By 2030, emissions are to be reduced by 55 per cent, and by 2050, emissions are to be net zero. The European Commission has proposed a target of 90 per cent emissions reductions by 2040. This provides guidelines for EU policy and legislation in most other areas, as well.

The European Green Deal is both a climate strategy for emissions reductions and a green growth strategy. Climate considerations must be taken into account and form the basis for almost all sectoral policies, including energy, industry, finance, transport and trade. EU Member States are therefore cooperating far more on climate and environmental issues than before, even in areas where there has traditionally been little common regulation at the EU level (such as on forests). Norway has many common interests with the EU on the climate and environment, although the bases for these interests may differ somewhat. The Committee is of the opinion that the EU is Norway’s most important cooperation partner on climate and environment. Cooperation with the EU has raised the ambitions of Norwegian climate and environmental policy.

Over the past decade, Norway’s climate and environmental policy has become even more closely linked to the EU. The 2050 Climate Change Committee has recommended continuing climate cooperation with the EU leading up to 2050. Much of Norway’s cooperation with the EU is anchored in the EEA Agreement, which also includes the 2019 climate agreement. As the climate agreement is incorporated into Protocol 31 of the EEA Agreement, both Norway and the EU have in principle a greater margin of discretion to assess whether and on what terms it should be updated and continued beyond 2030.

In 2020, Norway and the EU submitted updated climate targets for 2030 under the Paris Agreement. Norway was the first country to submit a target whereby carbon uptake of forest area and the land use sector are set to zero, thereby not counting towards Norway’s Nationally Determined Contribution. The EU reported a different type of target, which includes uptake. Norway cannot modify its target in the same manner as the EU, as this would be contrary to the principles of the Paris Agreement. When modifying their target, states parties may only raise their level of ambition. Downgrading is not permissible.

Norway has been highly dependent on international and European cooperation to gain access to emissions reductions outside Norway, which can be credited as emissions reductions towards Norwegian climate targets. The purchase of emission allowances from other countries, including via the EU Emissions Trading System (EU ETS), has enabled Norway to defer the reduction of emissions domestically. Norway has funded climate measures in countries where costs are lower, while national emissions have only been reduced by less than

five per cent since 1990. The EEA Agreement, including the climate agreement, gives Norway access to purchasing emission allowances from EU Member States.

In the future, relying on the purchase of allowances from other countries may become more expensive, as access to allowances from EU Member States will decrease leading up to 2050. This change will occur irrespective of whether or not the climate agreement with Norway is updated. In the lead-up to 2050, Norway will face a decreasing supply from the EU, coupled with the prospect of considerably pricier allowances across all sectors. If national emissions reductions remain low, it may be necessary to implement very costly measures within a short period of time in order to meet our own climate targets. This means that there is also a need for instruments that lead to greater emissions reductions in Norway.

The EU's overall climate and environmental targets shape the design of legislation in a number of other areas, including energy, transport, trade, industry and finance. Therefore, it is important that Norway coordinates its efforts between the various specialist ministries. The large volume of new EU legislation presents a challenge to the assessment of EEA incorporation. Current EEA legislation in Norway regarding renewable energy and energy efficiency is lagging behind the applicable EU legislation. This backlog results in differing legislation in Norway and the EU, increases uncertainty and entails a shorter time window to implement an already challenging transitioning of the economy and society.

The Committee recognises that EEA cooperation does not eliminate the need for a national climate and environmental policy. Norway has scope of action to design a broad set of instruments. This is important as the challenges related to climate, energy, industry and nature are interlinked, enabling measures that can prevent detrimental distributional effects and societal problems associated with the transition.

### *The Committee's recommendations*

- In order to achieve the Norwegian sub-targets under the climate agreement, Norway should strengthen instruments that ensure emission reductions in Norway as well.
- The backlog in implementation of EU legislation that can contribute to emissions reductions and green transition in Norway must be reduced.
- Norway should actively participate in the European discussions on a new EU policy for a green transition, with stronger cross-sectoral coordination of its national positions.
- The green transition must be anchored both politically and in the population, by way of more knowledge, debate and transparency. This also applies to the issue of updating and continuing the climate agreement with the EU.
- *The Committee's majority*, members Eldring, Eidissen, Fredriksen, Sletnes, Stie and Sunde, believe Norway should continue its climate cooperation with the EU leading up to 2050 and that it should be quickly clarified whether the climate agreement should be updated and continued. Norway should also work to ensure that EEA-relevant EU environmental legislation is quickly incorporated into the EEA Agreement. *The Committee's minority*, member Smedshaug, dissents on this matter.

See section 8.5 for a more detailed review of the Committee's main findings, assessments and recommendations, as well as remarks by the Committee's minority.

## **1.7 Energy policy**

Over the past 15 years, the EU's energy policy has undergone a change of pace, with an ambitious renewable and energy efficiency policy and greater cooperation to ensure efficient energy markets in Europe. In the last five-year period, the European Green Deal has set the

trajectory for the further development of all facets of EU energy policy. At the same time, the energy crisis has caused the energy system to take on security policy dimensions. More renewable energy and energy efficiency measures reduce greenhouse gas emissions *and* the dependence on Russian gas. Energy cooperation in the EU has helped EU Member States to unite in managing the drastic reduction of Russian gas. Ensuring competitive framework conditions for European industry is emerging as a key issue for the EU over the next five years, with energy being a crucial component of this concern.

The energy crisis was triggered by Russia withholding gas supplies to Europe. This began already in autumn 2021, as a prelude to Russia's full-scale invasion of Ukraine in February 2022. At the time, Russia used gas as a means of exerting pressure on EU Member States. During the dramatic months of spring and summer 2022, contracted supplies to a number of EU Member States were entirely cut off and have not resumed. Norway increased its gas supplies to EU Member States in 2022 and is now the largest exporter of gas via pipelines to Europe. Currently, there is a significant demand for Norwegian gas. However, uncertainties loom over the demand in 10-15 years' time.

Several of the fundamental issues in Norwegian energy policy are regulated to little or no extent by the EEA Agreement. This encompasses various issues such as energy production methods, public ownership of natural resources, the expansion of transmission capacity to other countries, and requirements for reserve capacity for hydropower. Norway has had a market-based power supply since the entry into force of the Energy Act in 1991. However, the introduction of competition and a market-based system has not prevented the continuation of public ownership of energy production, which is still widespread in Norway, the Nordic region and many EU Member States. The Supreme Court of Norway has ruled that the EU Agency for the Cooperation of Energy Regulators (ACER) is not permitted to make decisions of major societal importance in Norway.

The Nordic cooperation on the energy market is now integrated into a larger European cooperation on the formulation of EU rules. This increases the importance of the EEA Agreement for Norway. In the Committee's opinion, it is in Norway's interest that European energy markets are regulated and well-functioning, and that EU rules in this area are observed in the EU Member States. Dividing Germany into several bidding zones, as is already the case in Norway, would be in line with the principles underlying the EU's power market regulation. This would contribute to lower electricity prices in Norway and the Nordic region. However, changes to bidding zones are determined nationally.

Norwegian security of supply is dependent on access to energy from our closest neighbouring countries, which, with the exception of the United Kingdom, are all EU Member States. Norway participates in this cooperation via the EEA Agreement, which protects Norway against our neighbouring countries restricting the flow of electricity to Norway. The significance of the EEA Agreement for Norwegian security of supply in dry years is considerable in the event of a concurrent energy deficit in the EU. The Committee believes that EEA cooperation is important for Norwegian security of supply of electricity, as EU Member States will be obliged to prioritise the need for electricity within the EEA over the energy needs of a third country.

Norway's power system is largely based on regulated hydropower, and both households and businesses use considerable electricity. Electricity has typically been relatively affordable in Norway, benefitting both private and industrial actors. The high electricity prices in recent years have been a source of unease among some segments of the population and business sector, including in relation to the effects of the EEA Agreement. The energy transition and

high energy prices have reignited the discussion on various compensatory measures, both in Norway and the EU.

Norway currently has a considerable backlog in terms of incorporating EEA legislation pertaining to the energy sector. This backlog means that the current EEA legislation in Norway is lagging behind the applicable energy legislation in the EU. This means, among other things, that current EU/EEA law in Norway and Sweden is out of sync. The legislation governing Europe and the Nordic region has continued to evolve since the third energy package, while newer EU rules have not been incorporated into the EEA Agreement. EEA cooperation is based on the presumption of identical rules in the EU and EEA on matters related to the single market. In order to safeguard the EEA Agreement and ensure Norwegian market access and equal framework conditions, it is in Norway's interest to reduce the existing backlog. This is also important to ensure long-term security of supply.

Energy is a politically demanding and complex policy area both in Norway and the EU. This makes it even more important to be transparent and clarify the implications of EU rules as well as what remains under the purview of national authorities. The Committee believes that more knowledge and up-to-date and easily accessible information about the EU's energy policy can be a favourable contribution to the public debate.

### *The Committee's recommendations*

- Norwegian authorities should quickly clarify the EEA relevance of outstanding legal acts and reduce the backlog in incorporating EU energy legislation into the EEA Agreement.
- Norway benefits from well-functioning European energy markets and should support relevant EU processes that can contribute to this, such as changes to the German bidding zone.
- The scope of action within the EEA Agreement on energy should be harnessed in terms of support for households, support for energy efficiency and measures to ensure security of supply.
- Norwegian authorities should actively participate in European discussions on the need for support for industry and business, to ensure that joint solutions safeguard Norwegian security of supply and competitiveness.
- Norwegian authorities should facilitate a broader involvement and anchoring of different interests in the work on EEA matters in the energy sector.

See section 9.6 for a more detailed review of the Committee's main findings, assessments and recommendations, as well as additional remarks by the Committee's minority.

## **1.8 Consequences for the Norwegian economy**

The Committee has been tasked with assessing the significance of the single market and other cooperation within the framework of the EEA Agreement for the Norwegian economy and business sector.

The EU's single market consists of almost 450 million consumers and accounts for 18 per cent of the world's GDP. Trade within the EU and the Member States' trade with the rest of the world accounts for nearly a third of global trade. The EU Member States have long been Norway's paramount trading partners.

Through the EEA Agreement, Norway participates in the EU's single market on an equal footing with EU Member States. The common legislation facilitates cross-border trade in goods and services and ensures common European labour and capital markets. Norms and

standards from the single market are often applied as a basis for trade in markets outside the EEA, including through the EU's trade agreements with third countries.

The EEA Agreement is particularly important for cross-border activities but also impacts domestic Norwegian economic activity, and it is a key component of the regulations governing the Norwegian business sector. It also sets certain limits on the use of public funds through the legislation on state aid and public procurements.

A number of research articles from the last decade show that countries participating in the single market have experienced higher levels of trade, increased productivity and higher prosperity compared to alternative scenarios. The findings support the claim that Member States as a whole have benefited from the single market. However, the importance of the single market varies between countries. Overall, research shows that the effect has been positive for the vast majority of Member States. Several research articles show that small, open economies have particularly benefited from the advantages of the single market.

Norway is one such small, open economy. Naturally, there is less research focusing specifically on Norway, but the research that does exist supports the conclusions of the research examining the single market as a whole: Norway's entry into the single market through the EEA Agreement has contributed to increased trade, more competition and greater prosperity than would otherwise have been the case.

An important question is how big an overall effect the single market has had on Norwegian GDP. The 2012 report was based on a 2003 estimate by the European Commission, which found that the single market had increased the Member States' GDP by an average of 1.8 per cent cumulatively from 1992 to 2002. The Committee believes the cumulative effect of the single market on Member States' GDP is probably considerably higher than 1.8 per cent, given that the estimates in the majority of recent research studies surpass this figure. This would also apply to Norway.

In the Committee's assessment, the agreement has thus met its original objective.

See section 10.10 for a more detailed review of the Committee's main findings and assessments, as well as additional remarks by the Committee's minority.

## 1.9 Industrial policy

The EEA Agreement is in itself a key component of Norwegian industrial policy. Industrial policy, broadly speaking, concerns policies and measures aimed at promoting economic activity and strengthening the value creation, productivity, profitability and competitiveness of the business sector. This includes competition rules, procurement rules and state aid rules. The EU also establishes important frameworks through legislation, programmes and various funding mechanisms. This is collectively referred to in this report as the *EU's industrial policy*. Norway's affiliation with this policy impacts both the Norwegian business sector and the Norwegian authorities' policy toolbox.

EU industrial policy has undergone major changes since 2012, in part due to a number of crises, including the climate crisis, the COVID-19 pandemic and the war in Ukraine. Overall, this has resulted in a shift in industrial policy in a number of areas. The EU is displaying greater flexibility with regard to the possibility of granting public funding to the business sector and is increasingly emphasising climate and environmental criteria as conditions for granting such funding.

The European Green Deal currently holds substantial influence in shaping industrial policy. There has also been a trend towards a more active use of regulation and financial mechanisms at the EU level to ensure increased self-sufficiency and achieve strategic autonomy.

Furthermore, the EU has increased its use of trade policy instruments for the same purposes. At the same time as new policy considerations have increasingly come to shape industrial policy, the EU has enacted a large number of cross-sectoral legislation. In this situation, it is critical for the competitiveness of Norwegian enterprises to have framework conditions that are on par with those of actors in the EU. When introducing cross-sectoral legislation, it must be ensured that all affected and responsible authorities are involved and connected to the ongoing processes.

In recent years, the EU has launched trade policy mechanisms such as the Carbon Border Adjustment Mechanism (CBAM) and investment screening intended to protect the single market and European businesses. Several of these mechanisms challenge the EEA Agreement because they are situated in the grey area between the EU's common trade policy, which Norway does not participate in, and the regulation of the single market. Where the European Commission chooses to anchor the new rules in trade policy, Norway risks being treated as a third country.

Because the EEA Agreement does not involve a customs union, Norway is in principle what is known as a *third country* when the EU enters into trade agreements with other countries. This can affect the Norwegian business sector. A recent example of this is the battery case in connection with the EU-UK trade agreement.

In general, control of state aid in the EU and EEA has to an even greater extent shifted away from measures with a primarily local or regional impact (such as the operation of municipal swimming pools) since 2012. Both the European Commission and ESA are increasingly focusing on matters with genuine cross-border implications. The Committee considers this development to be positive.

Differentiated social security contribution is one of the most important instruments in Norwegian regional and rural policy. The current overall situation is that the differentiated social security contribution scheme can be continued.

In the Committee's opinion, participation in EU project cooperation, such as IPCEI projects, and business and research programmes, such as Horizon Europe, EU4Health, InvestEU and DIGITAL, is of major importance to the research sector, business sector and Norwegian authorities. Therefore, the Committee believes it is very important for Norway to participate in this type of cooperation.

Norway's participation in the EU's single market for goods, services, capital and persons for 30 years has been essential for a competitive Norwegian business sector. If changed conditions for trade and investment in the single market do not cover the EEA/EFTA states, this could have an adverse impact on Norwegian businesses and Norwegian jobs. A well-functioning EEA Agreement that is updated and developed in step with legislative developments in the EU is the cornerstone of Norwegian industrial policy.

### *The Committee's recommendations*

- To the extent possible, the EEA Agreement should form the basis for further development of industrial policy cooperation with the EU.
- Norwegian authorities should continue to prioritise close dialogue with ESA on further approvals of the differentiated social security contribution. By Norwegian authorities taking this initiative to the greatest extent possible, the process of obtaining ESA approval for the scheme can be streamlined and secured.

- Norwegian authorities should pay particular attention to amendments in EU legislation that are not covered by the EEA Agreement, but which may nevertheless have a major impact on competitive conditions in the single market.
- The authorities should review the EU's industrial policy initiatives and assess the consequences for the Norwegian business sector, as well as what measures can be implemented for critical areas that are not covered by the EEA Agreement.
- The trend towards increasingly cross-sectoral EU legislation makes it all the more important for Norwegian authorities to ensure that all affected and responsible parties are involved and connected to the ongoing processes.
- Norwegian authorities should ensure participation in relevant programmes and project cooperation in the EU and make the best possible use of the funding opportunities that are also open to Norwegian research and industry.
- Norway should follow the same rules and procedures as our European trading partners in terms of investment screening and seek close cooperation with the EU screening mechanism.
- For the sake of the competitiveness of Norwegian businesses, it is crucial that they are given framework conditions that are on par with EU actors, and that the authorities strengthen the industrial policy toolbox in step with other countries.

See section 11.6 for a more detailed review of the Committee's main findings, assessments and recommendations.

## **1.10 Working life and labour market**

Through the EEA, Norway is part of the common European labour market with the many opportunities this provides for both job seekers and employers. EEA immigration to Norway has contributed to increased value creation and competitiveness, bolstered settlement in areas with demographic challenges, and has provided much-needed and sought-after labour for Norwegian enterprises in both the private and public sectors. In some industries, migrant workers now comprise a high proportion of the workforce and are crucial to maintaining operations.

Labour immigration has been demand-driven, and to date there is little evidence of direct displacement of domestic labour. However, there have been adverse indirect impacts, such as declining local recruitment to some professions and trades, particularly in the construction sector.

Labour immigration has also challenged the Norwegian labour market system. The increased supply of labour has put pressure on pay and working conditions in some segments of the labour market. A worryingly high occurrence of social dumping and work-related crime persists in some industries. The transport industries on land, at sea, and in the airline industry involve unique challenges in terms of both regulation and enforcement, and the potential for social dumping has proven to be considerable, both in Norway and in the rest of the EEA. Over the past decade, the authorities have implemented a number of measures to combat work-related crime and social dumping. In general, these regulations have not conflicted with the EEA Agreement or been challenged.

However, certain EEA-related issues continue to be a source of discord in the labour market. This applies in particular to matters that affect the autonomy of the parties, and when matters that are in principle controversial in the national political debate are scrutinised by ESA. A relevant example is the recent tightening of the Working Environment Act concerning the right to hire from staffing agencies. This case demonstrates the challenges that arise when EEA law calls into question a political decision that, in this case, is considered very important



by some of the social partners and politics but is highly undesirable for others. The case also illustrates that what constitutes *Norwegian interests* in a particular domain can be highly divergent.

A key development in the last decade is what is often referred to as the *social turn* in the EU. The EU has adopted a number of new directives in the area of labour law, and more are on the way. These provisions are mainly consistent with what constitutes national policy in Norway. In most cases, it is also possible to have stricter provisions at the national level without contravening the EEA Agreement.

The Norwegian labour market model is based on well-functioning cooperation between social partners, small differences and high productivity. The Committee wishes to emphasise the importance of maintaining this model within the single market, with the free movement of labour and service providers. This will be crucial in the years to come, not only to ensure the legitimacy of the EEA Agreement among the population, but also because it is at the heart of the Norwegian labour market model, which has contributed to a productive and competitive business sector.

### *The Committee's recommendations*

- Norway should have a clear strategy to ensure the desired and necessary recruitment of labour from the EEA to Norway in the future, and also to implement measures to ensure national recruitment and competence building.
- Measures to ensure an organised working life and combat work-related crime and social dumping must be continued and strengthened, where necessary.
- The authorities must harness the scope of action provided by the legislation, where necessary, and ensure that measures are enforced.
- The special challenges in the transport industries must be addressed with clear legislation and strong government efforts for control and enforcement.
- Norwegian authorities should be active in influencing the early stages of the design of labour market legislation in the EU and also learn from other countries' solutions.
- Cooperation should be strengthened between Norwegian social partners and authorities to promote common Norwegian interests in labour market issues.

See section 12.11 for a more detailed review of the Committee's main findings, assessments and recommendations.

## **1.11 Crisis management and preparedness**

Crisis management and preparedness have become increasingly important in the EU. Overall, the EU's increased role in preparedness and crisis management has led to a strengthening and centralisation of resources. New organisational units have been established at the EU level, new coordination measures have been implemented and new legislation introduced. Most of the EU's cooperation on civil protection and cross-border health threats has become part of the EEA Agreement, both through single market legislation and through other EEA cooperation. Norway has also chosen to join the EU's cooperation on preparedness and crisis management in areas that have not previously been regulated by the EEA Agreement.

Experiences from the COVID-19 pandemic highlighted genuine challenges for Norway in ensuring an adequate supply of vaccines, medicines and medical equipment. It became clear that the EEA Agreement is no guarantee that the EU will not introduce measures that adversely impact Norway. This also applies in cases where such measures are, in Norway's view, contrary to the EEA Agreement, as demonstrated by the EU's export restrictions during the pandemic. At the same time, the EEA contributed to the rapid removal of such

restrictions. In the Committee's opinion, the COVID-19 pandemic is an example of how Norway can be affected by crises where it is dependent on cooperation with the EU. The Coronavirus Commission's conclusion was that there were no solutions other than cooperation with the EU that would have yielded anywhere near the same results in terms of protecting the lives and health of the population.

The Committee notes that an important motivation for the Norwegian authorities' desire to join the EU's preparedness and crisis management programmes is that Norway becomes vulnerable when acting unilaterally. The Total Preparedness Commission stated that Norway's security and preparedness challenges are largely linked to trends outside Norway's borders, and that it is also necessary to further develop and strengthen international civil protection and preparedness cooperation in order to face these challenges. Experiences from the COVID-19 pandemic, which are also fully documented in the Coronavirus Commission's reports, firstly demonstrate that the focal point for relevant cooperation for Norway lies within Europe. Secondly, there are no alternative constellations or cooperation in terms of preparedness and civil protection that can meet Norway's requirements to the same extent, neither today nor in the foreseeable future. There are currently no realistic alternatives to working closely with the EU on such matters.

Norway's participation in European cooperation is based on a desire to safeguard national interests related to the life and health of the population, security of supply and sufficient preparedness capacity for use in an emergency situation, as well as general security with natural partners. At the same time, participation is also based on a spirit of solidarity, i.e., joint European efforts to provide assistance both within and outside Europe. Therefore, it is important to maintain good cooperation and mutual trust through relevant and concrete Norwegian contributions to ensure broad and stable cooperation on civil protection between the EU and Norway.

The Committee believes that participation in the cooperation in these areas has strengthened civil protection in Norway and elevated Norway's status in EU/EEA cooperation through close interaction with the other countries. The Committee agrees with the Coronavirus Commission's assessment that Norway has benefited greatly from cooperating with the EU on health preparedness. Overall, there is now strong evidence that EEA cooperation is of great importance to Norwegian preparedness and civil protection. In line with the conclusions of the Total Preparedness Commission, the Committee recommends further developing cooperation on civil protection and preparedness with the Nordic region and the EU to safeguard Norway's crisis management and preparedness capacity, including Norway's participation in the strengthened European health preparedness cooperation.

### *The Committee's recommendations*

- Norway should emphasise the broader security policy significance that cooperation on preparedness and crisis management can have for maintaining trust and solidarity between European countries and for strengthening the general civil protection.
- Norway should work to optimise access to various types of forums and information channels for preparedness and crisis management in the EU system, such as the EU's Integrated Political Crisis Response (IPCR) mechanism and informal ministerial meetings, as such access is not guaranteed by the EEA Agreement.
- International cooperation on civil protection and civil preparedness, both with the Nordic countries and the EU, should be continued and strengthened.

See section 13.5 for a more detailed review of the Committee's main findings, assessments and recommendations, as well as additional remarks by the Committee's minority.

## 1.12 Foreign, security and defence policy

War and conflict in our neighbouring regions, growing great power rivalry and uncertainty about the United States' future commitment to Europe have contributed to a considerably more challenging foreign and security policy landscape over the past decade, both for EU Member States and Norway. NATO is responsible for collective defence based on transatlantic solidarity and cooperation. At the same time, the Russian aggression against Ukraine has contributed to strengthening security and defence policy cooperation in the EU.

The upheavals of the past decade underscore the need for closer foreign and security policy coordination and cooperation with the EU and raise the question of the extent to which the EEA Agreement is a possible platform for further development on this matter. The Committee has noted that the EU has strengthened its position as a foreign policy actor over the past decade and is now demonstrating an increasing willingness and capacity to act quickly and play an increasingly important role in foreign and security policy.

The war of aggression on the European continent has forced tighter European coordination and strengthened the transatlantic cooperation. The EU and NATO cooperate well and enjoy a clear division of labour. In the EU, the Commission has strengthened its position, even though Member States remain in the driving seat of foreign policy.

The Committee notes that the foreign, security and defence policy cooperation between Norway and the EU is deeper and broader than ever before. Norway and the EU share values and interests and stand together against Russia's invasion of Ukraine in violation of international law. Norway contributes to the EU's programmes for military and civilian assistance to Ukraine, has participated in several EU operations, contributes to crisis management under the EU umbrella, supports most of the EU's sanctions policy and takes part in the new EU initiatives for capacity building and innovation.

The EU has also stepped up and introduced new initiatives on crisis preparedness and civil protection. The EU and Norway are cooperating ever more closely in these areas, including through our Schengen affiliation. The Committee agrees with the recommendations of the Total Preparedness Commission and the Coronavirus Commission on the importance of continuing and strengthening cooperation with the EU in these domains. This is important for preparedness in relation to and management of existing and new threats.

The Committee believes that it is now more important than ever to further develop our cooperation with the EU in order to protect Norway. Closer cooperation with the EU is not in opposition, but rather a supplement to, the allied cooperation in NATO. The EU's economic and industrial policy mechanisms can contribute to strengthening NATO's overall defence capability. The Committee has noted that Norway is characterised as the EU's closest partner in the 2022 foreign policy strategy document, The Strategic Compass.

The EEA is an important framework for cooperation with the EU in areas of importance to Norwegian security, but it does not ensure automatic access for Norway to projects and programmes that may also have major security policy significance, as illustrated by the Health Emergency Preparedness and Response (HERA) programme and the Secure Connectivity programme for secure satellite communications. These initiatives are in principle only open to Member States. The Committee believes it is important for Norway to join relevant new EU initiatives, even when they fall outside the scope of the EEA.

The formal frameworks and procedures of the EEA cooperation are not established to handle rapid information sharing and response during a foreign and security policy crisis. The EEA is primarily a tool for increased trade and economic cooperation. EEA cooperation can supplement, but not replace, foreign and security policy cooperation with the EU.

Strengthened foreign and security policy cooperation must take place outside the framework of the EEA Agreement.

At the same time, the EEA allows for participation in cooperation in areas that can have a major impact on civil protection and resilience. The EEA is also an important reason why the EU considers Norway to be its closest foreign policy partner. Therefore, the EEA Agreement has greater significance for Norwegian foreign and security policy than the content of the agreement would suggest, per se.

The Committee agrees with the Norwegian Defence Commission that Norway should continue to seek close cooperation with the EU on foreign policy, security and defence. At the same time, EU cooperation is based on the principle of a clear distinction between member and non-member states. Through its work, the Committee has found that it is unlikely that the EU will grant Norway formal rights in this area on par with Member States, neither in terms of participation in political and governing bodies nor participation in strategic processes. On the other hand, an integrated approach to these issues could give weight and visibility to the cooperation, not least because of Norway's importance as the EU's closest partner in foreign and security policy, as a participant in the single market and as an important energy supplier.

### *The Committee's recommendations*

- Norway should continue to seek close cooperation with the EU on foreign policy, security and defence.
- Norway should join relevant new EU initiatives even when they fall outside the scope of the EEA.
- The Norwegian Government should follow up on the EU's ambition for a strategic partnership, with a view to further clarifying how such a partnership can be structured.
- The Committee stresses the gravity of the strongly deteriorated security policy situation. In Europe today, we are facing the most challenging situation since World War II. *The Committee's majority*, members Eldring, Eidissen, Fredriksen, Sletnes, Stie and Sunde, believe that in addition to our participation in a strong NATO, Norway should undertake a change of pace in our cooperation with the EU to ensure our security by further strengthening ties with our European allies and neighbours. *The Committee's minority*, member Smedshaug, dissents on this matter.

See section 14.8 for a more detailed review of the Committee's main findings, assessments and recommendations, as well as remarks by the Committee's minority.

## **1.13 Experiences from the United Kingdom, Switzerland and Canada**

The Committee has been tasked with assessing the experiences of the United Kingdom, Switzerland and Canada from their agreement-based cooperation with the EU. The forms of cooperation these countries have with the EU vary. They were established at different times and with parties that have entirely different political and economic ties to the EU. The Committee emphasises that it is necessary to understand the different experiences with these agreements in relation to the specific political, geographical and economic contexts of these countries, both when the agreements were negotiated and during the periods in which the agreements have been in effect.

*Switzerland* has a number of separate, sector-based agreements, which must be updated regularly. In the areas covered by the bilateral agreements, the EU expects Switzerland to adapt and apply the legislation such that it functions in a manner consistent with that of the EU. Although the cooperation between the EU and Switzerland is comprehensive, there are

several areas that fall outside the scope of the agreements. Switzerland only partially participates in the single market. Switzerland has also encountered several difficulties with its sector-based approach to cooperation with the EU. At times, Switzerland has also been excluded from parts of the cooperation. It appears unrealistic that similar cooperation arrangements and agreements would have been agreed today. This form of affiliation does not ensure a stable and predictable framework for cooperation, neither for Switzerland nor the EU.

*The United Kingdom* is the first and only EU Member State to have left the Union. The United Kingdom's agreements with the EU have been finalised after an at times conflict-ridden processes, both the Withdrawal Agreement and the Trade and Cooperation Agreement. The set of agreements contains elements that are unique to the United Kingdom, both as a former EU Member State and because of the relationship between Northern Ireland and the Republic of Ireland. After the United Kingdom left the union, it entered into a Trade and Cooperation Agreement with the EU in 2020. In some areas, it goes further than the EU's other trade agreements, while in other areas it is neither particularly deep nor comprehensive. The agreement means that the United Kingdom is outside the single market. Based on the information available as of Q1 2024, there is strong evidence to suggest that Brexit has so far had noticeably adverse impacts on the UK economy. Economic research generally shows that the UK economy as a whole has been adversely affected by Brexit, although major shocks such as the COVID-19 pandemic and the war in Ukraine make it more difficult to assess the Brexit effect in isolation.

*Canada's* and the EU's experiences with the Comprehensive Economic and Trade Agreement (CETA) are largely positive. CETA is viewed as a modern free trade agreement. It is also important to note that CETA was not yet finalised in the spring of 2024 – seven years after it was signed. Although CETA has facilitated the simplification and liberalisation of trade, it does not remove non-tariff barriers to trade. Through CETA, the parties have initiated cooperation to remove such trade barriers through dialogue and consultations, but experience shows that such efforts are complicated and time-consuming. Canada is outside the single market, with the restrictions this imposes on market access. At the same time, both Canada's geographical location and the fact that mutual trade between Canada and the EU is relatively moderate suggest that the need for closer integration into the single market is considerably less than for countries such as Switzerland, the United Kingdom and Norway.

All three forms of affiliation differ from the EEA Agreement in several crucial respects. None of these agreements provide the same access to the single market as the EEA Agreement. The Committee believes that the experiences of both the United Kingdom and Switzerland show that the EU is now increasingly rejecting special solutions for individual countries. The EU does not want individual countries to be able to cherry-pick which commitments they take on. Nor is it acceptable to negotiate exceptions or special arrangements capable of undermining the single market. In the event of closer economic integration, the EU will demand the establishment of agencies that ensure monitoring and compliance with agreed obligations.

The Committee emphasises that there is reason to be cautious about drawing conclusions based on other countries' experiences from their cooperation with the EU. The review shows that the EU's agreements with Switzerland, the United Kingdom and Canada cover fewer areas and to a lesser extent ensure market access than the EEA Agreement. In the Committee's opinion, the EEA provides a broader, deeper and more predictable cooperation that, overall, safeguards more interests and needs.

See section 15.6 for an in-depth review of the Committee's main findings and assessments.

## 2 The Committee's work

### 2.1 Appointment and mandate

By royal decree of 6 May 2022, a broadly composed, independent committee was appointed to investigate and assess the experiences with the EEA Agreement and other relevant agreements with the EU (the EEA cooperation) over the past ten years. The Norwegian Government wanted the report to cover the following topics in particular:

- Key developments in EEA cooperation over the past ten years.
- The significance of the single market and other cooperation within the framework of the EEA Agreement for the Norwegian economy and business sector, including for the development of Norwegian industry in the green transition.
- Consequences of the EEA for Norwegian citizens and Norwegian society, at large.
- An analysis of how the EEA Agreement and free movement of labour have affected the Norwegian labour market, the Norwegian labour market model and the opportunities for a decent working life, including issues such as social dumping and cabotage in the transport industry.
- The scope of action in the EEA cooperation and how this can be better harnessed, both in terms of Norwegian participation in the design of EU policy and legislation, in the implementation of EEA legislation nationally and through the safeguarding of national interests in relation to implemented EEA rules. On this matter, the Committee can refer to, among other things, the assessments in the report *Departementenes EØS-arbeid* [The Government Ministries' EEA-related work] from June 2021. The Committee is also tasked with discussing the right of reservation.
- An assessment of the requirement of EEA relevance as a basis for deciding which parts of EU legislation must be included in the EEA Agreement, including the role of the EEA Joint Committee in this context.
- An analysis of the experiences with the EEA Agreement from a democratic perspective, including questions such as the extent to which the EEA cooperation comprises political decisions that were under the purview of national authorities and the extent to which the EEA Agreement limits Norway's opportunity to have special national rules in various domains.
- Legal and institutional consequences of the EEA cooperation, including developments with a bearing on the two-pillar system in the EEA, including the costs of maintaining the two-pillar system. Among other things, the Committee is tasked with discussing the development of EU agencies and providing an assessment of the various forms of affiliation with EU agencies.
- A review of the pros and cons of the dynamic nature of the EEA Agreement.
- EEA cooperation as a possible platform for foreign and security policy cooperation with the EU, particularly in light of developments in EU cooperation following Russia's war against Ukraine. The Committee should also discuss the degree of added value beyond the transatlantic and European foreign and security policy cooperation Norway has in NATO.
- The role of EEA cooperation in crisis management and preparedness, including health preparedness, comprising trade-offs between national capacities and international cooperation solutions such as the EEA cooperation. The Committee should shed light on Norway's experiences with the EEA cooperation during the COVID-19 pandemic.

- The importance of EEA cooperation in solving global climate and environmental challenges, as well as Norway’s ability to set stricter climate and environmental requirements than those required in EU legislation. The report should also shed light on the extent to which the EEA Agreement affects the Norwegian authorities’ ability to meet national targets to rapidly reduce emissions, e.g., in the area of forest policy.
- The importance of EEA cooperation for Norwegian energy policy and security of supply.
- The role of EEA cooperation in combating cross-border crime.
- An analysis of how the competition rules and the rules that follow from the EEA Agreement’s provisions on public procurements are applied in Norwegian society and the political objectives with which the rules may conflict.
- A review of how the EEA affects Norwegian rural policy and local democracy (municipalities and county authorities), including the possibilities for further developing the scheme involving differentiated social security contribution.
- An assessment of the experiences of the United Kingdom, Switzerland and Canada from their agreement-based cooperation with the EU.
- The relevance of the EEA Agreement for Nordic cooperation and the extent to which Nordic cooperation is dependent on the EEA framework.

The Committee has been free to identify other issues that are relevant to the main assignment.

At the same time, the mandate emphasised that the report should be concise, succinct and easily accessible to non-specialists. It should contain operational recommendations on how Norwegian authorities can best safeguard Norwegian interests in cooperation with the EU.

## **2.2 The Committee’s interpretation of the mandate**

The Committee has been tasked with assessing experiences with the EEA Agreement and other relevant agreements with the EU (the EEA cooperation) over the past ten years. The Committee interprets this to mean that the EEA Agreement will be at the centre of the investigation. This is also reflected in most of the mandate items. Norway has a number of agreements with the EU that are also important for the EEA cooperation. These are described and referred to where relevant.

The Committee has had a comprehensive mandate, with as many as eighteen sub-items, ranging from general and overarching questions to more specific issues. In this sense, the mandate reflects the fact that EEA cooperation affects virtually all areas of society and fields. At the same time, the mandate emphasised that the report should be concise, succinct and accessible to non-specialists. It has been essential for the Committee to reconcile these seemingly contradictory aspects of the mandate. To achieve this, the Committee has taken several steps in terms of both the form and content of the report.

We have emphasised the importance of presenting the content as simply as possible. The aim is for the report to be accessible to generally informed persons, without assuming in-depth knowledge of either the EU or the EEA. To limit the length of the text, we have chosen not to include some detailed descriptions. More detailed accounts are in some cases placed in appendices. For example, Appendix 2 provides a brief overview of the institutional framework of the EEA cooperation.

The Committee has focused on post-2012 experiences, as requested in the mandate. This means that the Committee relies heavily on the 2012 report for the period prior to 2012. The majority of the chapters include a review of key findings and conclusions from the 2012

report, which provides an important frame of reference for analysing the experiences of the past decade.

The framework for the report is Norway's participation in the EEA Agreement. The Committee has not considered alternative forms of affiliation with the EEA and the EU, but has analysed experiences with the agreement (and other cooperation agreements with the EU). In addition, the Committee has examined the experiences of the United Kingdom, Switzerland and Canada from their agreement-based cooperation with the EU.

The Committee has not had the opportunity to address all issues and topics related to Norway's EEA cooperation within the framework of this report. With such an extensive mandate, it has been necessary to prioritise and concentrate on the issues that the Committee considers particularly relevant and important in relation to the mandate. The Committee was tasked with examining the role of EEA cooperation in combating cross-border crime. At the same time, the mandate did not include an examination of the experiences with the Schengen Agreement, which is the most important cooperation Norway has with the EU in the area of justice and home affairs. In consultation with the Ministry of Foreign Affairs, we therefore operationalised this part of the mandate to mainly include measures related to combating work-related crime. A study of the Schengen cooperation is a major undertaking, and the Committee recommends that this be carried out as a separate study.

The Committee has chosen not to add significant items to the mandate, out of consideration for time and resources. In order to give the various parts of the mandate a thorough consideration, it has also been necessary to delimit some of the topics in the mandate. This means that some important areas of society are not discussed, or are only briefly described, without this in any way reflecting the importance of the area in question.

Some mandate items have been structured and clustered together, and the work has emphasised what the Committee considers to be the most central issues within the various areas, rather than a general, broad and descriptive review. In this regard, the criteria have been a combination of both academic and practical factors, and not least relevance to important and ongoing public debates. Some of the mandate items, such as rural policy consequences and Nordic cooperation, are cross-cutting thematic areas that do not have their own chapters, but are discussed and assessed in various places in the report.

The mandate can be interpreted as partially overlapping with other ongoing and/or recently finalised studies. The Committee has therefore limited itself in relation to issues that have recently been analysed by other committees. This includes NOU 2020: 9 *Blindsonen* [The Blind Spot]. The Committee has not examined the EEA Agreement's restrictions on residence requirements when travelling in the EEA. Based on the report by the Labour Immigration Commission (NOU 2022: 18), this Committee has not examined issues related to the situation of migrant workers in Norway in greater detail. The Committee has also relied on the work of the Electricity Price Committee on security of supply and price formation.<sup>2</sup> Furthermore, the Committee has relied on the first interim report of the Procurement Committee (NOU 2023: 26), which is mandated to review the new structure of the procurement legislation, make proposals for simplifying the content of the legislation, and review the rules on social considerations.<sup>3</sup>

The Committee has referred to findings and conclusions from a number of other reports, where relevant. In addition to the above, this applies in particular to the following:

- The Coronavirus Commission (NOU 2022: 5): Among other things, the Coronavirus Commission assessed the authorities' handling of the pandemic in light of EEA

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<sup>2</sup>Electricity Price Committee (2023).

<sup>3</sup>The second part of the Procurement Committee's report will be submitted in May 2024.



cooperation, such as vaccine procurement, travel restrictions and the COVID-19 certificate scheme.

- The Norwegian Defence Commission (NOU 2023: 14): In its work, the Norwegian Defence Commission assessed Norway’s cooperation with the EU in the area of defence and security policy in light of developments in international power relations.
- The Total Preparedness Commission (NOU 2023: 17): The Commission was tasked with assessing the significance of international expectations and obligations for Norwegian preparedness, as well as how foreign resources and assistance from allies and partner countries can strengthen our preparedness. The mandate noted that the EU Civil Protection Mechanism should be included in the assessment. The report also examines the protection of critical infrastructure in the energy sector.
- The 2050 Climate Change Committee (NOU 2023: 25): Part of the background for the work on the report regarding the choices Norway must make to achieve its climate target in 2050 is that Norway’s climate policy is closely intertwined with European policy, both through the EEA Agreement and other agreements with the EU. Part of the Committee’s mandate was to assess Norway’s relationship with the EU and regulatory developments in the EU.
- The Investment Control Commission (NOU 2023: 28): Among other things, the Committee has been tasked with assessing the extent to which Norway’s existing arrangements for handling potentially security-threatening economic activity against organisations that are not subject to the Security Act are in accordance with the requirements of EU legislation. The mandate also emphasised that if the Norwegian legislation fails to address issues that pose a threat, Norway could become a back door to the EU’s single market.
- The Government Ministries’ EEA-related work (2021): As a result of the *NAV case*, the Norwegian Government established an inter-ministerial working group in 2020 tasked with proposing measures to improve the quality of legislation that implements EEA legislation, reviewing the decision-making structures and coordination bodies in the EEA-related work and improving knowledge and follow-up of case law. The report was submitted in June 2021 and also contains recommendations for changes to the Instructions for Official Studies with guidance notes.

## 2.3 The Committee’s composition and working methods

The Committee has had the following seven members:

- Line Eldring, Oslo (Chair), Head of Department, The United Federation of Trade Unions
- Stig Eidissen, Lawyer, Norwegian Association of Local and Regional Authorities (KS)
- Halvard Haukeland Fredriksen, Professor, University of Bergen
- Oda Helen Sletnes, Senior Advisor KREAB Brussels
- Christian Anton Smedshaug, Managing Director, AgriAnalyse
- Anne Elizabeth Stie, Associate Professor, University of Agder
- Knut Erling Sunde, Acting CEO, Norsk Industri

The Committee’s Secretariat has been located at the ARENA Centre for European Studies, University of Oslo, and has consisted of the following full- and/or part-time employees: Guri Rosén (Chair), Elen Botten (until August 2023), Trym Nohr Fjortoft (until November 2022), Silva Malin Hoffmann, Torbjørg Viveke Straand Jevnaker, Chris Lord, Olav Haldorsson

Slettebø, Silje Marie Thorstensen, Frode Veggeland, Siri Venemyr (until December 2023) and Anne Mette Ødegård (until June 2023).

The Committee held its first meeting on 20 June 2022 and has had a total of 23 meetings. Most meetings were held as two-day meetings in the Oslo area. Seven of the meetings were held digitally. During the meetings, the Committee has heard presentations and received comments from a number of Norwegian and foreign experts, as well as representatives from public authorities – government ministries, directorates and supervisory authorities.

In January 2023, the Committee conducted a study trip to Brussels and met with representatives from the Norwegian EU delegation, the EFTA Surveillance Authority, the EFTA Secretariat and the European Commission, Switzerland, Confederation of Norwegian Enterprise (NHO) Brussels, Norwegian Confederation of Trade Unions (LO) Brussels and the think tank European Policy Centre. In September 2023, the Committee travelled to Stockholm, where its members met with representatives from the Swedish authorities, business sector and academia.

The Committee has had its own website and email address. The website encouraged people to send comments to the Committee. The Committee received a total of five submissions, including comments from No to the EU, the Union of Education Norway, the City of Oslo Department of Urban Development and two private individuals.

The Committee's assessments are based on a variety of source material. This includes public and other reports, research articles, as well as oral presentations and comments from a number of different stakeholders. Many people have been invited to make presentations directly to the Committee, but the Committee Chair and Secretariat have also met with and obtained both written and oral information from a number of experts and public authorities.

To ensure a sound professional basis, the Committee has commissioned several external reports. The reports cover areas in which the Committee aimed to gather additional knowledge. The external reports are available as digital appendices to the report. The following ten reports have been used as a specialised knowledge base for the report:

- Bjarnason, B. (2024) *Iceland and the EEA*.
- Franklin, C. (2024) *EU-borgerskap og EØS* [EU Citizenship and the EEA].
- Frommelt, C. and Gstöhl, S. (2024a) *Switzerland's relations with the European Union*.
- Frommelt, C. and Gstöhl, S. (2024b) *Lichtenstein and the European Economic Area*.
- Leblond, P. (2024) *Five Years Into the Canada-European Union Comprehensive Economic and Trade Agreement: What to make of the EU's First Third-Generation Trade Agreement?*
- Olsen, E. D. H. (2024) *EØS og statsborgerskap* [EEA and Citizenship].
- Rieker, P., Riddervold, M., and Gunnarsdottir, E. (2024) *EU blir viktigere som utenriks- og sikkerhetspolitisk aktør: Norsk utenforskap blir mer krevende* [The EU is growing in importance as a foreign and security policy actor: Norwegian exclusion is becoming more challenging]. Norwegian Institute of International Affairs (NUPI).
- Tvedt, J. (2024) *Norwegian road transport of goods and the use of foreign hauliers and drivers*. Institute of Transport Economics.
- Zuleeg, F., Michalsky, K. and Greubel, J. (2024) *Report for the Norwegian public inquiry commission on EU relations with third countries*. European Policy Centre.
- Øistad, K.; Mohr, C. W. and Hobrak, K. (2024) *European Green Deal and the Forest*. The Norwegian Institute of Bioeconomy Research (NIBIO).

## **2.4 Structure of the report**

The report consists of a total of fifteen chapters and is divided into five parts.

Part I contains the introduction and main conclusions, as well as recommendations.

Part II describes key developments in the EU that are of significance to the EEA Agreement and Norway's relationship with the EU. In addition, this section contains a background chapter that provides an overview of the development of Norway's cooperation with the EU over the past decade.

Part III discusses overarching themes in the EEA cooperation: Administration and enforcement of the EEA Agreement, scope of action and democracy and rights under the EEA Agreement.

Part IV examines experiences with the EEA cooperation in key areas of society: Climate and environment, energy, economy, business policy, labour market, crisis management and preparedness, and foreign and security policy.

Part V considers the experiences of the United Kingdom, Switzerland and Canada with the EU.