

UTKAST

TOPIC III – QUESTIONNAIRE

Energy solidarity and energy security – from green transition to the EU’s crisis management

Norway

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INTRODUCTION

Norway is not a Member State of the EU but is a party to the EEA Agreement. We will therefore give a brief introduction to some central elements of the relationship with Norway and the EU regarding energy policy before we answer the questions.

Norway’s status in the European electricity market

Norway has been integrated into the EU internal market for exactly 30 years through the Agreement on the European Economic Area (EEA).³ The Norwegian energy system is closely integrated with the other Nordic systems, both in physical terms and through market integration. The Nordic market is integrated with the rest of Europe through cross-border interconnectors to the Netherlands, Germany, the Baltic states, and Poland.⁴

Hydropower accounts for most of the Norwegian power supply. This is a significant difference compared to the rest of Europe where security of supply is mainly secured through thermal power plants, with fuels available in the energy markets. Norway has half of Europe’s reservoir storage capacity, and more than 75 % of Norwegian production capacity is flexible. Production can be rapidly increased and decreased as needed, at low cost.⁵

Norway has traditionally been an exporter of energy, both in terms of electricity and petroleum. However, in dry years, Norway is dependent on import from surrounding countries.

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³ The Agreement on the European Economic Area (EEA) [1994] OJ L1/3 was signed in Porto in Portugal on May the 2nd 1992 and entered into force the 1st of January 1994. For a general introduction in English, see Halvard Haukeland Fredriksen and Christian NK Franklin, ‘Of Pragmatism and Principles: The EEA Agreement 20 Years On’ (2015) 52 Common Market Law Review. For further details, see e.g. Finn Arnesen and others (eds), *Agreement on the European Economic Area: A Commentary* (Nomos 2018).

⁴ Norwegian Ministry of Energy, ‘The Power Market’ *Energy Facts Norway* <<https://energifaktanorge.no/en/norsk-energiforsyning/kraftmarkedet/>> accessed 22 May 2024.

⁵ *ibid.*

Norway has had a surplus of energy production. The Norwegian Water Resources and Energy Directorate expects, however, that the average power balance will become weaker towards 2028.⁶ A weaker power balance means that Norway has fewer hours of power exports during the year and more hours of power imports.

The status of the principle of energy solidarity and the objective of energy security in EEA law

The EEA Agreement does not contain a provision corresponding to Article 194 TFEU. Thus, there is some uncertainty regarding the status of the principle of energy solidarity and the objective of energy security in EEA law.

It is not clear whether the principle of *energy solidarity* exists within EEA law. In the *OPAL case*, the Court referred amongst others to Article 194 TFEU, the EU Treaty's preamble, and several provisions in TEU with reference to solidarity.⁷ None of these have a corresponding text in the EEA Agreement. The term solidarity is not mentioned anywhere in the main part of the EEA Agreement. Contrary to the EU treaties, the EEA Agreement has remained substantially unchanged. There is therefore a widening gap between the texts of the EU treaties and the EEA Agreement.⁸ However, the objective of the Contracting Parties to the EEA Agreement is to arrive at "an equal treatment of individuals and economic operators as regards the four freedoms and the conditions of competition".⁹ The aim stated in Article 1 of the EEA Agreement "is to promote a continuous and balanced strengthening of trade and economic relations between the Contracting Parties with equal conditions of competition, *and the respect of the same rules*, with a view to creating a *homogeneous European Economic Area*, hereinafter referred to as the EEA" (our emphasis).

A relevant question is therefore to what extent the principle of solidarity, although not explicitly mentioned in the EEA Agreement, will still have impact in EEA law due to the homogeneity principle. We do not assess this further here.

⁶ The Norwegian Water Resources and Energy Directorate, 'Kortsiktig Kraftbalanse 2023 - Forventer Kraftoverskudd i Norge Fram Mot 2028' (14 August 2023) <<https://www.nve.no/media/16231/nves-forventninger-om-utvikling-av-kraftbalansen-til-2028.pdf>> accessed 27 May 2024. For a recent evaluation of the current situation in Norway when it comes to the energy market, and especially the energy prices, please see the report from Strømprisutvalget, an expert committee appointed by the government Olje- og energidepartementet, 'Rapporten frå straumprisutvalet levert til olje- og energiministeren' *Regjeringa.no* (12 October 2023) <<https://www.regjeringen.no/n/aktuelt/rapporten-fra-straumprisutvalet-levert-til-olje-og-energiministeren/id2999734/>> accessed 22 May 2024.

⁷ Judgment of the Court in case Germany v Poland, C-848/19 P, EU:C:2021:598, point 39.

⁸ See Case E-28/15 *Jabbi*, para. 62.

⁹ EEA Agreement 15th preface.

The Norwegian Government's official position regarding the status of *security of supply* in the EEA Agreement was stated in 2012 in a White Paper to the Norwegian Parliament as follows:

“[T]he position of the EEA EFTA States has been that the EEA Agreement does not cover security of energy supply. In the light of this, Norway did not consider Council Directive 2004/67/EC on security of natural gas supply or Council Directive 2006/67/EC on the maintenance of minimum stocks of crude oil and/or petroleum products to be EEA relevant. However, if the substance of an act is considered to affect the functioning of the internal market, a different decision may be reached. For example, Directive 2005/89/EC on the security of electricity supply was incorporated into the EEA Agreement because of its clear impact on the internal market.”¹⁰

Challenges with determining EEA relevance of EU legislation concerning energy

Before the EEA Joint Committee incorporates new EU acts into the Annexes or Protocols of the EEA Agreement, as provided for in Article 98 EEA, the legislation is scrutinised to ensure that it falls within the scope of the EEA Agreement. Usually, the Commission will indicate whether the act is “EEA relevant”, and the legal basis for the legislation will be stated in the act. The Commission's indication of EEA relevance is not determinative, and the EEA EFTA States will thoroughly evaluate whether the act should be incorporated into the EEA Agreement.¹¹

The legal basis used by the Commission will give another indication to the EEA EFTA States of whether legal act is EEA relevant. The fact that security of a supply, with a legal basis in article 194 TFEU, is more and more frequently used as a legal basis for EUs legislation within the energy sector, is a challenge for the EEA EFTA States.¹² According to the Norwegian Gov-

¹⁰ Meld. St. 5 (2012–2013) Report to the Storting (White Paper) The EEA Agreement and Norway's other agreements with the EU, [p. 12 \(original translation\)](#).

¹¹ Protocol 31 to the EEA Agreement facilitates for cooperation in specific fields outside the four freedoms. This means that there is no legal obligation for the EEA EFTA States to incorporate new EU *acquis* into the EEA Agreement, but that this is done on a voluntary basis.

¹² See for example NOU 2024: 7 Norge og EØS: Utvikling og erfaringer p. 169.

ernment, security of supply falls – as a starting point – outside the scope of the EEA Agreement.¹³ The main focus of the EEA Agreement is internal market legislation and market integration, which will typically have a legal basis in Article 114 TFEU, an internal market provision.¹⁴

If EU legislation is not EEA relevant, or if the parties disagree on whether it is EEA relevant, the EEA Agreement Protocol 31 may be used to incorporate it on a voluntary basis. For instance, in 2019, the Effort Sharing Regulation and the Regulation on Land, Land-Use Change and Forestry (LULUCF) was incorporated into Protocol 31. The government-appointed committee tasked with assessing the experiences of the EEA Agreement explains that Norway wanted this to be a separate agreement outside the EEA, while the Commission believed it belonged in the EEA Agreement’s Annex XX on the environment.¹⁵ The solution was to include the regulations in Protocol 31, but with an adaptation that makes it clear that the EEA Agreement’s normal system of monitoring, judicial control and dispute resolution shall apply.¹⁶

Backlog of the incorporation of EU energy regulations

There are a number of directives and regulations in the energy sector that are not incorporated into the EEA Agreement. One example is Commission Regulation (EU) 2017/2196 of 24 November 2017 establishing a network code on electricity emergency and restoration. The ministry’s EEA memo regarding this regulation from 4 December 2018 states:

“The Emergency and Restoration Regulation has been assessed as EEA-relevant by the Commission. Co-operation on security of electricity supply falls outside the narrow scope

¹³ Meld. St. 5 (2012–2013) Report to the Storting (White Paper) The EEA Agreement and Norway’s other agreements with the EU, [p. 15](#).

¹⁴ For instance, Directive 2005/89/EC had a legal basis in the provision regarding internal market, Article 95 TEC (corresponding to Article 114 TFEU). The Directive is in the EU replaced by regulation 2019/941 on risk-preparedness in the electricity sector, with legal basis in Article 194 (2) TFEU regarding energy. This regulation is marked as EEA-relevant by the Commission. The Norwegian Government has however not decided whether the updated legislation is EEA relevant. Directive 2005/89/EC was implemented into the EEA Agreement in Annex IV Energy. When an act is incorporated into an annex it can normally – according to the Governments position from 2012 – “be assumed that later legislation relating to the same field will also be incorporated into the Agreement”, see Meld. St. 5 (2012–2013) Report to the Storting (White Paper) The EEA Agreement and Norway’s other agreements with the EU, [p. 14](#).

¹⁵ NOU 2024: 7 Norge og EØS: Utvikling og erfaringer [p. 42](#).

¹⁶ NOU 2024: 7 Norge og EØS: Utvikling og erfaringer [p. 42](#).

of the EEA Agreement.^[17] The Norwegian authorities have not completed their assessment of EEA relevance. As an extension of the EEA relevance assessment, the need for any EEA adaptations must also be further assessed.”¹⁸

As of 27 May 2024, the Norwegian authorities have not completed their assessment of EEA relevance. A government-appointed committee tasked with assessing the experiences of the EEA Agreement recently recommended that Norwegian authorities should quickly determine the EEA relevance of pending legal acts and reduce the backlog of the incorporation of EU energy regulations into the EEA Agreement.¹⁹

The EU Commissioner for Energy also addressed this issue in a letter to the Norwegian Minister for Energy on 13 March 2024. The Commissioner stated that “EU and EEA core energy legislation are diverging to a very worrying degree, creating at present genuine legal and level playing field issues that are negatively affecting a range of actors in both Norway and the EU”. In the absence of progress, “the Commission shall consider any steps necessary that may need to be taken to preserve the integrity of our joint EEA Single Market”.²⁰ For more on this, see our answer to question 11 below.

CHAPTER I MULTIDIMENSIONALITY OF ENERGY SOLIDARITY AND ENERGY SECURITY IN EU AND NATIONAL LAW

1.

The concept of energy solidarity with EU’s Member States is not clearly addressed in any Norwegian laws or judicial practice. If a principle of energy solidarity forms part of primary EEA law, this is however also a part of Norwegian law with precedence over other provisions that regulate the same matter.²¹ As the question refers to, there is a close link between energy solidarity and energy security.

Norway has legislation with elements of security of supply and measures to ensure a satisfactory quality of energy supply. See for instance regulation on quality of supply in the power system,²²

¹⁷ Original footnote: «[St. prp. nr. 100 \(1991-92\) Om samtykke til ratifikasjon av Avtale om Det europeiske økonomiske samarbeidsområde \(EØS\)](#), pkt. 4.10.4.»

¹⁸ EEA database, ‘Nettkode om nødsituasjoner og gjenoppretting’ *Regjeringen.no* (desember 2018) <<https://www.regjeringen.no/no/sub/eos-notatbasen/notatene/2016/sep/nettkode-om-nodsituasjoner-og-gjenoppretting/id2512505/>> accessed 27 May 2024 (translated here).

¹⁹ NOU 2024: 7 Norge og EØS: Utvikling og erfaringer [p. 19](#).

²⁰ The letter can be ordered [here](#).

²¹ The Norwegian EEA law [§ 1 and 2](#).

²² [FOR-2004-11-30-1557](#).

regulation on safety and emergency preparedness in the power supply,²³ and regulation on the management of energy shortages and power rationing.²⁴

Energy security has also been on the Government's agenda in recent years. In the summer of 2024, a law on strengthening the security of energy supply came into force. The Watercourse Regulation Act's new purpose clause states that the Act "shall facilitate that watercourse regulation and transmission together contribute to good security of supply for electrical energy in Norway".²⁵ A well-functioning system where hydropower can be used to balance an intermittent and volatile energy market in Norway will also be of value for Europe's security of supply.

2.

As mentioned in the introduction, it is not clear whether there exists a principle of energy solidarity in EEA law. In the *OPAL case*, the Court referred amongst others to Article 194 TFEU, the EU Treaty's preamble, and several provisions in TEU with reference to solidarity.²⁶ None of these have a corresponding text in the EEA Agreement. The term solidarity is not mentioned in the main part of the EEA Agreement.

3.

See question 2.

4.

The Government has stated in its political platform that it "will not approve any new interconnectors to foreign countries during this parliamentary term" (2021–2025).²⁷ When the Government in February 2022 announced its major initiative to promote offshore wind power, the Minister of Finance said that "as we now work to expand offshore wind power, we will not be looking to establish new interconnectors that increase electricity export capacity from mainland Norway".²⁸ The Government decided that the first large offshore wind farm should receive up to 23 billion Norwegian kroner and only be connected to Norway. We do not know whether this has led to bilateral tensions, but the largest opposition party in Norway wanted the project to be developed together with an interconnector and less state aid.²⁹

²³ [FOR-2012-12-07-1157](#).

²⁴ [FOR-2023-12-19-2161](#).

²⁵ Watercourse Regulation Act [§ 1a](#) (translated here).

²⁶ Judgment of the Court in case *Germany v Poland*, C-848/19 P, EU:C:2021:598, point 39.

²⁷ The Government's political platform: A government for ordinary people (2021–2025), [p. 28](#) (translated here).

²⁸ Office of the Prime Minister, 'Major Initiative to Promote Offshore Wind Power' ([Government.no](#), 12 February 2022) accessed 2 May 2024.

²⁹ The Conservative Party, 'Conservatives vote against billions in subsidies for offshore wind' ([hoyre.no](#), 31 May 2023) accessed 2 May 2024.

In 2023, the Norwegian Ministry of Energy rejected an application for an interconnector between Norway and the UK.³⁰

The Norwegian leader of the Centre Party and Minister of Finance has said that he did not want to renew two interconnectors to Denmark that expire in 2026. His party believes there is no reason to renew the licences and that the time has passed for large, new interconnectors.³¹ The deputy CEO of Green Power Denmark said that it seemed strange to them that “Norway only wants to sell oil and gas, but not green electricity to Europe”.³² However, the Minister of Energy (from the Labour Party) stated that “the current cables to Denmark are maintaining energy security”.³³ There thus seems to be a conflict within the Norwegian Government on this issue.

In terms of other bilateral cooperations within the energy sector, Norway has had a cooperation with Sweden, where an electricity certificate market was created to facilitate for more renewable energy projects. This project was finalised in 2022. The market was based on a bilateral agreement between Norway and Sweden with a basis in the cooperation mechanism under the EU Renewable Energy Directive (2009/28/EC).

5 and 6.

As mentioned in the introduction, it is not clear whether the principle of energy solidarity exists within EEA law. We do therefore not have a particular view regarding these specific questions.

7.

According to the Government, the war in Ukraine, damage to subsea cables in the Baltic Sea and the sabotage of the Nord Stream pipelines in 2022 have shown how important it is to protect subsea infrastructure on the Norwegian continental shelf. The Government states that it is implementing the following measures: Conduct surveys of key subsea fibre routes, acquire technology that can be used to monitor subsea fibre and acquire equipment that can detect interference with satellite-based services (GNSS), such as GPS, on the Norwegian continental shelf.³⁴

³⁰ Finlay Scott, ‘Explainer: Fatal Blow for Scotland’s Norwegian Green Energy Dream’ *The Herald* (11 July 2023) <<https://www.heraldscotland.com/politics/viewpoint/23645464.explainer-fatal-blow-scotlands-norwegian-green-energy-dream/>> accessed 27 May 2024.

³¹ NTB, ‘Danskene reagerer på Vedums ønske om å kutte kraftkabler’ (*Tu.no*, 9 December 2023) <<https://www.tu.no/artikler/danskene-reagerer-pa-vedums-onske-om-a-kutte-kraftkabler/540910>> accessed 27 May 2024.

³² *ibid* (translated here).

³³ *ibid* (translated here).

³⁴ Ministry of Digitalisation and Public Governance and Ministry of Defence, ‘Increased security for critical infrastructure on the Norwegian shelf’ ([regjeringen.no](https://www.regjeringen.no), 2 February 2024) accessed 2 May 2024 (translated here).

8.

The Government has not decided whether it regards the TEN-E Regulation³⁵ from 2013 as EEA relevant.³⁶

9.

The Minister of Petroleum and Energy had a speech at the Energy Conference between Norway and the EU where he stated that “when Russia started using energy as a weapon, Norway quickly increased our production of gas to strengthen European energy security” and that the Government will do what they can “to facilitate that the Norwegian continental shelf will continue as a reliable source of gas to Europe”.³⁷

CHAPTER II ENERGY SOLIDARITY, ENERGY SECURITY AND GREEN TRANSITION

10.

We do not have a particular view regarding this question.

11.

The EU measures adopted so far in the context of «Fit for 55» have not yet been implemented into the EEA Agreement. There is a large backlog in the implementation of EEA-relevant legal acts. The EU Commissioner for Energy pointed this out in a letter to the Norwegian Minister for Energy on 13 March 2024. She explained that Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources (recast) (RED II) and the amending Directive 2023/2413 (RED III) still remains non-transposed in the European Economic Area. The Commissioner stated that “EU and EEA core energy legislation are diverging to a very worrying degree, creating at present genuine legal and level playing field issues that are negatively affecting a range of actors in both Norway and the EU”. In the absent of progress, “the Commission shall consider any steps necessary that may need to be taken to preserve the integrity of our joint EEA Single Market”.³⁸

The letter was discussed in Norwegian media and at the Norwegian parliament. The parliamentary leader of the Centre Party (one of the two parties represented in the Government) told Montel News that this was a completely new tone from the EU, and that “The Centre Party finds it difficult to take it seriously that one party in a trade agreement sets deadlines for the

³⁵ Regulation (EU) No 347/2013 of the European Parliament and of the Council.

³⁶ EEA database, ‘TEN-E Regulation’ (regjeringen.no, 8 May 2017) accessed 2 May 2024 (translated here).

³⁷ Minister of Energy, ‘The Minister of Petroleum and Energy’s speech at the Energy Conference between Norway and the EU’ (regjeringen.no, 24 October 2024) accessed 2 May 2024.

³⁸ The letter can be ordered [here](#).

other party, while at the same time announcing countermeasures against Norway if we do not comply.”³⁹

The Prime Minister was asked in the Parliament if he was concerned that the EU could suspend parts of the EEA Agreement in the absence of progress relating to the adaption of the Directive. The Prime Minister replied that Norwegian industry benefits from having broad agreement on the regulations, but as an EEA country, we review and evaluate each of these Directives. The EEA Agreement could theoretically include these types of measures – in the absence of an agreement and a complete stop. He did not think we would get there and mentioned that we have not got there through 30 years with the EEA.⁴⁰

12.

The closest Norwegian legal concept to the EU notion of “do no significant harm” is probably found in the Nature Diversity Act. The Act contains amongst others a precautionary principle for official decision-making in Section 9: “When a decision is made in the absence of adequate information on the impacts it may have on the natural environment, the aim shall be to avoid possible significant damage to biological, geological or landscape diversity.”⁴¹

13.

Electricity pricing policy was widely debated in Norway when electricity prices became very high. The Government set up a committee to assess what short- and long-term measures could ensure lower and more predictable prices for electricity users, within the scope of the EEA Agreement.⁴² The Government has provided households with electricity subsidies since December 2021.⁴³ The scheme is set to last until December 2024.⁴⁴

³⁹ Petter Udland, ‘Senterpartiet fnyser av EUs trusler’ *MONTEL* (5 April 2024) <<https://montelnews.com/nordic/news/af7e3509-89eb-4ce1-a22f-fb345a716491/senterpartiet-fnyser-av-eus-trusler>> accessed 22 May 2024 (translated here).

⁴⁰ The Storting, ‘Meeting Wednesday 17 April 2024 - item 1’ *Stortinget.no* <<https://www.stortinget.no/nn/Saker-og-publikasjoner/publikasjoner/Referat/Stortinget/2023-2024/refs-202324-04-17?m=1>> accessed 22 May 2024 at 10:59:36. His statement in Norwegian: «Norge er tjent med å ha bred regelverkenighet. Det er bra for næringslivet vårt, men vi er altså et EØS-land som gjennomgår og vurderer hvert av disse direktivene, og i EØS-avtalen kan det teoretisk sett komme slike typer tiltak – hvis man ikke kommer til enighet, og det blir en full stopp. Jeg tror ikke vi kommer dit, og vi er til nå heller ikke kommet dit gjennom 30 år med EØS. Jeg tror ikke vi gjør det nå heller.»

⁴¹ Ministry of the Environment, ‘Nature Diversity Act’ *Government.no* (19 June 2009) <<https://www.regjeringen.no/en/dokumenter/nature-diversity-act/id570549/>> accessed 22 May 2024. (Translation by the Norwegian Government).

⁴² Olje- og energidepartementet (n 6).

⁴³ Office of the Prime Minister, ‘Government Launches Electricity Support Package Worth Billions’ *Government.no* (11 December 2021) <<https://www.regjeringen.no/en/aktuelt/government-launches-electricity-support-package-worth-billions/id2891839/>> accessed 22 May 2024.

⁴⁴ See the Norwegian Electricity Subsidy Act [Section 2](#).

The Government has suggested changes in the legislation to strengthen the position of the consumers in the electricity market. The main focus is to ensure that consumers can evaluate the quality of agreements for the delivery of electricity and to ensure that the customers can terminate the agreements.⁴⁵

14.

As mentioned, the Government decided that the first large offshore wind farm (Sørlige Nordsjø II) should receive up 23 billion Norwegian kroner and only be connected to Norway. The largest opposition party in Norway wanted the project to be developed together with an interconnector and less state aid.⁴⁶ The EFTA Surveillance Authority (ESA) approved the state aid in the form of a contract for difference (CfD) for phase 1 of Sørlige Nordsjø II. There was no assessment of the possibility for developing the offshore wind farm as a hybrid project connecting to other EU Member States.⁴⁷

15.

The Government has not decided whether it regards the TEN-E Regulation⁴⁸ from 2013 as EEA relevant.⁴⁹

16.

Norway is a large export-country of gas to Europe. A government-appointed committee tasked with assessing the experiences of the EEA Agreement recently wrote the following regarding Norway's gas market policy:

“While energy security is usually discussed in terms of “security of supply”, Norway has sought “security of demand” from the EU. In the years leading up to the energy crisis, the EU's gas market policy shifted towards more short-term exchange trading of gas (spot) rather than long-term gas agreements. This change was reflected in the organisation of trade in Norwegian gas to Europe. In the face of more short-term contracts, a Norwegian strategy – for Norwegian governments as well as for petroleum companies – has been, as far as possible, to secure political signals from the EU and EU states on long-term demand for gas. The motive is to create predictability for long-term investments on the Norwegian

⁴⁵ Prop. 83 L (2023–2024), Endringer i energiloven mv. (tiltak for et mer forbrukervennlig strømmarked). The proposal has been on a hearing and is being assessed at the Parliament, [Sak - stortinget.no](https://stortinget.no)

⁴⁶ The Conservative Party, ‘Conservatives vote against billions in subsidies for offshore wind’ (hoyre.no, 31 May 2023) accessed 2 May 2024.

⁴⁷ ESA, «Phase I of Sørlige Nordsjø II», Decision [No 194/23/COL](https://esa.europa.eu/No_194/23/COL), 19 December 2023

⁴⁸ Regulation (EU) No 347/2013 of the European Parliament and of the Council.

⁴⁹ EEA database, ‘TEN-E Regulation’ (regjeringen.no, 8 May 2017) accessed 2 May 2024 (translated here).

continental shelf, because investments in the extraction and transport of petroleum are made a long time in advance and are costly.”⁵⁰

17.–19.

We do not have a particular view regarding these questions.

20.

The acts in REPowerEU have not been incorporated into the EEA Agreement.

Chapter III The EU’s crisis management in the field of energy and its limits

21.–23.

The EEA Agreement does not contain a provision mirroring Article 122(1) TFEU. As the question refers to, there has been a change in legal basis for EU’s energy policy due to the energy crisis in 2022, this is a potential challenge for Norway and the other EEA EFTA States, see our introduction.

According to the government-appointed committee tasked with assessing the experiences of the EEA Agreement, crisis management measures adopted under Article 122 TFEU are not EEA relevant.⁵¹ For instance, one of the regulations adopted on the basis of Article 122 TFEU, Council Regulation (EU) 2022/2577 of 22 December 2022 laying down a framework to accelerate the deployment of renewable energy, was not marked as EEA relevant by the Commission. However, some provisions of that regulation have also been included in an amendment to the Renewable Directive (EU) 2023/2413, which the Commission *has* marked EEA relevant. The latter directive has TFEU 194 as the legal basis.

⁵⁰ NOU 2024: 7 Norge og EØS: Utvikling og erfaringer [p. 171](#) (our translation).

⁵¹ NOU 2024: 7 Norge og EØS: Utvikling og erfaringer [p. 165](#).