



ROYAL NORWEGIAN MINISTRY  
OF LABOUR AND SOCIAL INCLUSION

EFTA Surveillance Authority  
Avenue des Arts 19 H  
1000 Brussels  
BELGIUM

Your ref

Our ref

Date

22/3509-

3 March 2025

## **Draft of the new control regime - Mass collection and cross-referencing with the Currency Transaction Register**

Reference is made to the EFTA Surveillance Authority's (the Authority) follow-up letter after the meeting on 25 October 2024. In the follow-up letter of 5 November 2024, the following request was made to Norwegian authorities:

*The Norwegian Government is requested to provide the Authority, first, with a clear timeline for the steps to be taken with respect to the new control regime, at the latest, by 7 January 2025. This should include when the Authority can expect to receive a draft of the new control regime, how much time the Authority will be allotted to review this regime, and any other steps foreseen, as well as an envisaged date for the coming into force of the new regime.*

In our letter of 7 January 2025, we informed the Authority of our intention to send a draft of the new control regime by 28 February 2025, and that the new Circular to the National Insurance Act § 21-4 would be published in February 2025.

### **1. Draft of the new control regime**

The Ministry has interpreted «the new control regime» to apply to the planned use of mass collection from the Currency Transaction Register. We underline that the regime will not come into effect before feedback is received from The Authority, and that Nav does not currently collect data from the Currency Transaction Register.

Nav has conducted a Data Protection Impact Assessment (DPIA) for the future mass collection and data comparison of information from the Currency Transaction Register. As

Postal address  
Postboks 8019 Dep  
0030 Oslo  
postmottak@aid.dep.no

Office address  
Akersgata 64  
www.aid.dep.no

Telephone  
+47 22 24 90 90  
Org. nr.  
983 887 457

Department  
Budsjett- og  
styringsavdelingen

Reference  
Jens Sandbrekke  
Wolther  
+47 22 24 86 42

part of the DPIA, Nav assessed questions concerning the legal basis for the planned practice for mass collection from the Currency Transaction Register.

One of Nav's assessments is that the law does not require a supplemental regulation to be in place in order for Section 21-4 d to be applied, cf. the wording: 'the Ministry may issue supplemental regulations ...' It is the current structure and setup of the Currency Transaction Register that causes Nav to receive more information about foreign currency transactions than what is 'necessary' to check whether benefit recipients are staying abroad in violation of the conditions for the benefit.

Due to the structure of the Currency Transaction Register, Nav receives aggregated transaction information that also reflects online purchases made from Norway in foreign online shops. The latter is not relevant to Nav's control purpose. Nav filters this information out during the review of the audit list, partly by filtering based on criteria, and partly by further investigations such as obtaining additional information from financial institutions.

The current structure of the register thus hinders the collection of personal data in a way that fully supports the principle of data minimisation. The key question as regards the national legislation is whether information that sums up transactions, including online purchases from Norway, falls under the law's term 'foreign currency transactions', cf. subparagraph 1 c. Although the wording could have been more instructive, "foreign currency transactions" is deemed to include online shopping abroad where the buyer is located in Norway. Nav's assessment is that this interpretation is not outside the wording of the Act.

The fact that aggregated transactional information, including transactions stemming from i.e. online shopping from Norway, is included as an element underlying the information from the Currency Transaction Register, is therefore not considered to be in conflict with Section 21-4 d of the National Insurance Act.

Nav assesses the practice as necessary for the purpose and effective and less intrusive than random checks, controls based on tips, etc. Against this background, Nav does not find that the described practice conflicts with GDPR's principles of necessity and proportionality.

However, as the information also includes aggregated information stemming also from transactions relating to online purchases from Norway, the practice could be said to be in the margins of what the regulation allows. Nav therefore sees it as important to actively work on further measures for data minimisation:

- It is currently not possible to minimise data at the Currency Transaction Register by isolating information about transactions made abroad from information about Norwegian online purchases. Nav will work actively towards achieving this as quickly as possible.
- Nav will continuously work on other possibilities for data minimisation beyond what is described in the DPIA.

The DPIA was approved by Nav's risk-owner for this procedure, the Director of the Benefits Department, in February 2025.

In the following, we will present a draft of the planned use of the mass collection and data comparison of information from the Currency Transaction Register.

## **2. The Legal Basis**

Nav's legal basis for processing personal data when mass collecting information from the Currency Transaction Register is GDPR Article 6 (1) letter c (processing is necessary for compliance with a legal obligation to which the controller is subject) and letter e of the same subparagraph (processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller).

Nav's legal obligation to conduct evaluations and audits of benefit conditions is stated in section 4 of the Norwegian Labour and Welfare Administration Act, which states that Nav "is responsible for monitoring and auditing services, benefits, and payments".

The benefits Nav wishes to monitor and audit by mass collecting information from the Currency Transaction Register, are unemployment benefit and work assessment allowance, cf. information on risk groups provided below. The relevant condition that Nav can verify using information from the Currency Transaction Register is the benefit criteria. For unemployment benefits there is a requirement for residence in Norway which follows from section 4-2 of the National Insurance Act, and for work assessment allowance there is a requirement for residence in the EU/ EEA which follows from section 11-3 of the National Insurance Act.

Sections 21-4 and 21-4 d of the National Insurance Act are the legal basis for Nav's collection of personal data, pertaining to the different benefits which are administered by Nav.

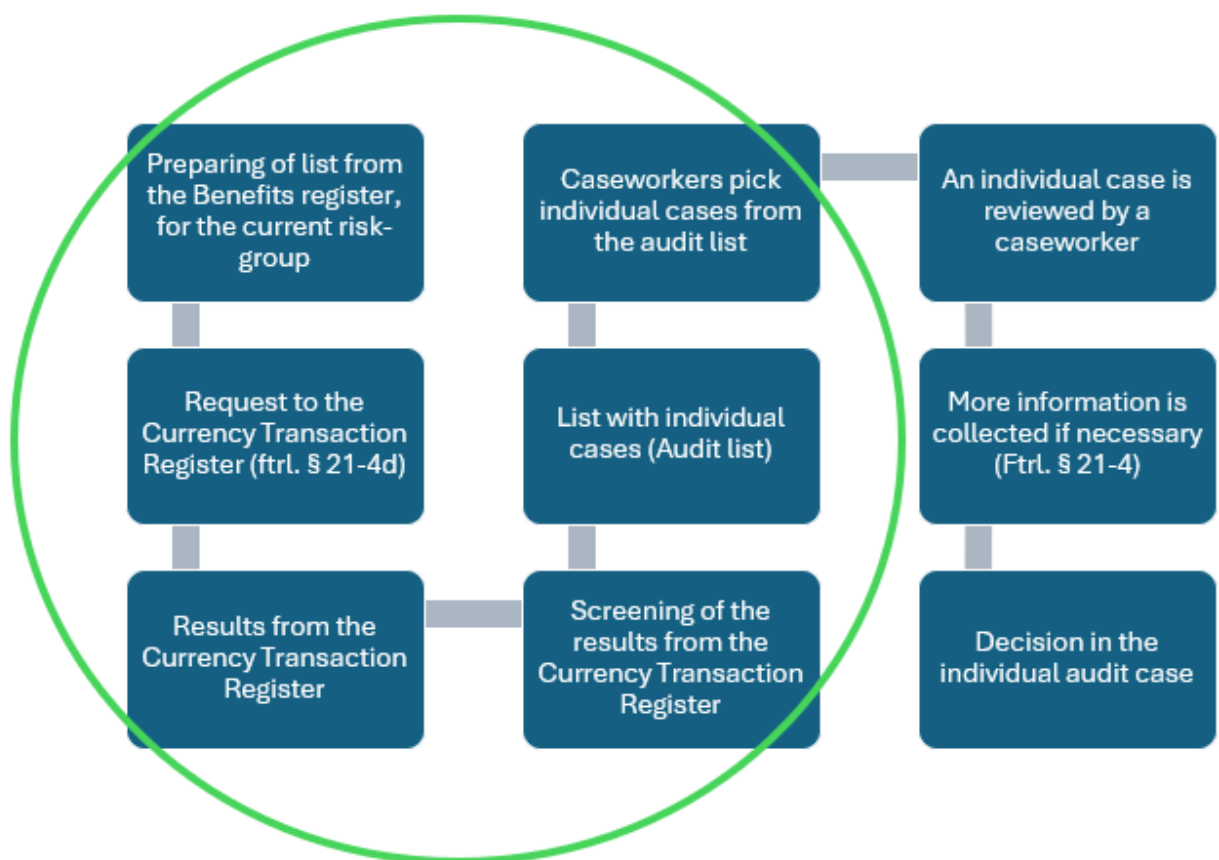
In some cases, Nav needs to collect additional information to audit the validity of a claim. In *individual audits*, the goal is often to confirm or refute clear indications of breach of the conditions for a benefit. By *mass collecting data*, the goal is to identify which cases, amongst a higher risk population, that should undergo an individual audit.

Section 21-4 of the National Insurance Act is Nav's legal basis for obtaining information from others about the benefit recipients. Due to the large scope of Nav's needs for information to decide on benefit cases, the provision is broad and allows Nav to gather necessary information from various entities such as healthcare personnel, employers and financial institutions. The provision also allows for obtaining information about individuals other than a benefit recipient, if this is necessary to verify the validity of a claim.

The provision is mainly used when processing applications, but is also used in all audit cases.

Section 21-4 d of the National Insurance Act is Nav's legal basis for mass collection for data comparison with another register. The provision is used to identify cases which should be subject to individual audits. Only a few people in Nav Control have the operational needs to access information in order to carry out the mass collection and comparison. Only four people are granted access to the data before the audit list is made.

The control regime which is presented in the following is solely for the mass collection of data from the Currency Transaction Register. The individual audits which may follow are not included in this regime.



**Figure 1:** Flowchart – From mass data collection to individual audit cases. Only the steps within the green circle are included in the new control regime.

### 3. The Currency Transaction Register

The purpose of the Currency Transaction Register is to prevent and combat crime "... by allowing control and investigating agencies access to information concerning currency exchanges and transfers of funds in and out of Norway", cf. section 1 of the Currency Transaction Register Act.

The Currency Transaction Register is managed by the Norwegian Tax Administration and contains information about currency exchange and the transfer of funds into, and out of Norway. The information is provided by Norwegian financial institutions, primarily banks. Nav's access to the register is regulated in section 6 of the Currency Transaction Register Act. Nav Control has electronic access to the information in the register, but access is not used due to capacity constraints in the system which Nav uses to access the Register. We describe Nav's process of mass collecting from the Currency Transaction Register in greater detail in part 5 of this letter.

#### **4. Risk Group**

Only persons in the current risk-group will be subject to mass collection of information from The Currency Transaction Register. Nav considers Work Assessment Allowance and Unemployment Benefit to be the two benefits with the highest risk of overpayment and fraud, and recipients of these benefits are therefore considered to be in the risk-group (per 2024).

Some of the main factors when determining a risk-group, are internal reports, external reports (i.e. dark figure surveys and statistics) and the professional competence and experience of the employees at Nav Control.

Who the risk-group encompasses, will always be a dynamic assessment.

#### **5. Procedure and types of data collected**

In this part of the letter, we account for the planned procedure for mass collection from the Currency Transaction Register.

An evaluation of necessity and proportionality must be conducted and documented by two case workers before executing any mass collection from the Currency Transaction Register. If the mass collection is deemed necessary and proportional, Nav will send an inquiry to the Norwegian Tax Administration for mass collection from the Currency Transaction Register.

Nav will send the following to the Norwegian Tax Administration:

- Which period Nav wants information about (in months)
- Personal identification numbers for the people in the current risk-group

As an additional security measure, the attachment with personal data from Nav will be encrypted.

The Norwegian Tax Administration will enrich the file from Nav with the following information from the Currency Transaction Register:

- Card number / type
- Month of card usage
- Amount (aggregated per month, per card)
- In which country the transaction was carried out

Nav will then make three separate lists:

1. The Result list
2. The Statistics list
3. The Audit list

Individuals from the file who are registered with entries in the Currency Transaction Register will automatically be transferred to a new table in Nav's system that contains a gross overview of possible overpayment cases ("the Result list"). When the Statistics list and the Audit list are prepared, the data will be deleted.

Based on the Result list, Nav produces a separate table, an overview for statistical and summary purposes ("the Statistics list") which contains all potential discrepancies. Personal identification numbers will be removed. Since the Statistics list no longer contains direct identifiers, the list will be considered pseudonymised. The Statistics list will be considered anonymised when the CSV file, the Result list, and the Audit list are deleted.

The content of the table will be made available to specific personnel in Nav Control who need access in order to do their job. Access management is handled by the identity manager in the Nav Control management unit. The Statistics list shall only be used for statistical and summary purposes, including in connection with dark figure surveys and to prioritise Nav's overpayment tasks. Information from the Statistics list will serve as one of many parts of the assessment of future risk groups, as it provides information on how extensive potential stays abroad in breach of the benefit conditions are for the benefits that Nav will mass collect information about.

Based on the Result list, Nav shall prepare a list used for selecting individual cases for further assessment and audit of possible overpayments ("the Audit list"). The Audit list contains the same types of information as the Result list.

However, the number of benefit recipients included in the Audit list must be reduced compared to the Result list. The purpose is (i) to limit the scope of recipients to be audited based on Nav's available resources for case processing at any given time and (ii) to focus on the most serious cases and minimise the risk of discrepancies due to errors. When determining the parameters, an assessment must be made of whether it is necessary and proportionate to process the information in the Audit list based on these parameters. The assessments must be documented. If the parameters are changed, the assessment must be updated.

After the Audit list is prepared, all other information (either in the form of tables or stored material) must be deleted.

The cases from the prepared Audit list will be made available to caseworkers in Nav Control who need access to the information. The content of the entire Audit list will not be visible to

the individual caseworker before he/she retrieves an individual case from the list. Only the country and amount will be visible to caseworkers before they pick a case from the Audit list. Once a case is picked, the rest of the information, including personal data, about the specific case on the Audit list will be visible to the respective caseworker. When all entries in the Audit list have been checked, or no further checks will be carried out within a reasonable time, the Audit list must be deleted,(no later than two years after creation).

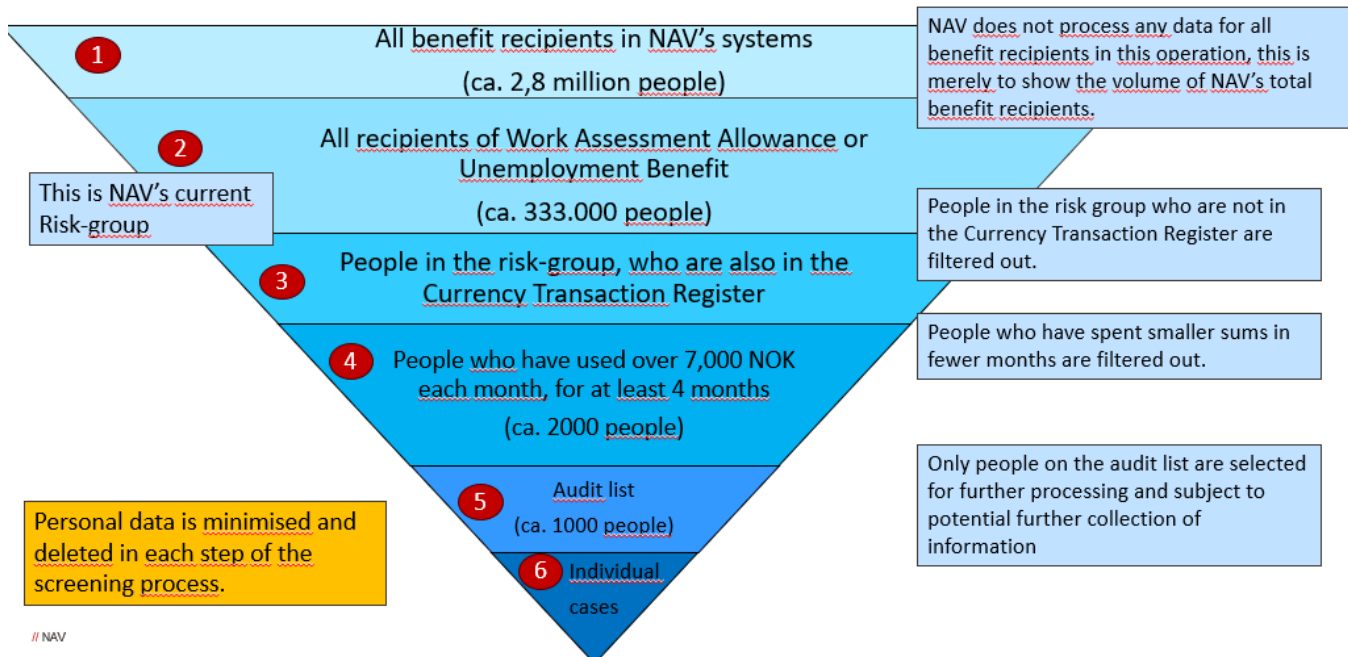
The mass collection of information from the Currency Transaction Register will enable Nav to generate a list of recipients who use large amounts on Norwegian bank cards abroad, over an extended period. Previous audits have shown that recipients who have these hallmarks, have a high risk of not meeting the benefit criteria of either residing in Norway or the EU/EEA.

It is worth mentioning that Nav is not able to decide on whether there is a case of overpayment or fraud based on information from a mass collection alone, and that the mass collection only serves as a first step to screen a large amount of data.

### 6. Data minimisation and screening

Nav does not currently mass collect data from the Currency Transaction Register. Figure 2 shows the planned data minimisation process during mass data collection from the Currency Transaction Register. This is based on Nav’s previous practice. The simplified figure illustrates Nav’s step-by-step data minimisation where personal data is minimised and deleted continuously at each step.

#### Information from the Currency Transaction Register – Screening process and data minimisation (Numbers from 2023)



**Figure 2:** Screening process and data minimisation

**Step 1** shows the entire mass of benefit recipients in Nav. Nav does not process any data for all benefit recipients in this operation, this is merely to show the total volume of Nav's benefit recipients.

**Step 2** includes all recipients of Unemployment Benefit or Work Assessment Allowance. This is Nav's current risk group, that will be sent to the Norwegian Tax Administration.

**Step 3** is what Nav receives from the Norwegian Tax Administration; information about people who are in both Nav's risk group and the Currency Transaction Register. Nav does not have data about the size of this group, due to the fact that the data from the last mass collection has been deleted.

**Step 4** shows that the group is further minimised by Nav setting parameters such as amount limits and time periods. In the example, we used the parameters of NOK 7000 spent abroad per month for at least 4 months. The group of data subjects is greatly reduced by such parameters. Nav Control employees can also help in reducing the group, by removing entries with countries that in their experience are associated with online-shopping and other transactions that do not indicate that a person was outside of Norway/EEA when making the transaction.

In **step 5**, Nav ends up with the final Audit list, where the most serious cases are selected. Only the people on the Audit list are selected for an audit of their individual cases in **step 6**. Not all people on the Audit list will be subject to an audit, this depends on Nav's capacity. Nav's capacity can be affected in different ways, for instance by the Covid-19 Pandemic that led to Nav having to prioritise applications for benefits over audits.

## **7. Necessity and proportionality assessment**

The necessity criterion involves evaluating whether Nav has a legitimate interest in processing the personal data, and whether the legitimate interests can be achieved just as effectively in another way that is less intrusive to fundamental freedoms.

Nav has an obligation to verify the conditions for benefits, cf. section 4 of the Norwegian Labour and Welfare Administration Act. The fact that Nav conducts audits is also a task in the public interest, and the processing can be considered a necessary part of Nav's exercise of statutory authority.

Nav needs to process mass collected personal data from the Currency Transaction Register for three main purposes; (i) identification of cases that should be further examined, (ii) statistical assessments of the potential for benefit fraud, and (iii) ensuring a preventive effect as it can deter potential misuse of the benefits.

It would be extremely challenging for Nav to identify potential benefit fraud cases where stays abroad are a factor, without using the Currency Transaction Register. This is due to the Currency Transaction Register being the only source Nav can use to mass collect



information that may indicate stays abroad. The alternative would be tips, which are not a very reliable source. The information from the Currency Transaction Register, on the other hand, is a very reliable source containing fact-based information that has a higher accuracy than tips, according to statistics from Nav Control.

Due to this, Nav deems the use of mass collected data from the register necessary to fulfil their statutory duties to verify conditions for benefits and prevent benefit fraud. The proportionality criterion will to some extent overlap with the necessity criterion, as the legitimate societal needs justifying the processing are weighed against the intrusion into individual privacy.

Nav's legitimate necessity for processing the personal information must be weighed against the intrusion into the benefit recipient's individual privacy. The intrusion must be proportional, and the suitability and necessity of the intrusion in order to achieve the purpose are central to the assessment.

The processing of personal data from the Currency Transaction Register forms the basis for selecting cases for further review and is thus a preliminary stage of the audit; the processing itself does not lead to criminal or administrative sanctions. Nor does the processing affect the individuals' legal status.

Regarding the nature of the intrusion, it is not considered particularly burdensome or intrusive for the affected individual, as the information has already been collected by the Norwegian Tax Administration, the data is limited, and there will be limited manual processing involved in the data comparison. In addition, the data minimisation shall be done at an early stage, and surplus information is deleted within a short period of time.

In summary, the processing is considered necessary and proportionate. Emphasis is placed on the fact that the processing: (i) is part of Nav's statutory control tasks; (ii) Nav performs a task in the public interest; (iii) there are no less intrusive alternatives; (iv) the processing is a preliminary stage and does not in itself lead to criminal or administrative sanctions; (v) the intervention is not particularly burdensome; (vi) Nav has implemented necessary technical and organisational measures to ensure privacy and compliance.

## **8. Measures taken to ensure compliance**

Measures to ensure privacy are important factors in the necessity and proportionality assessment. Nav has implemented a number of measures to ensure compliance when they eventually resume mass data collection from the Currency Transaction Register:

1. Caseworkers can no longer see names or national identification numbers before they pick a case from the audit list – this information will only be visible to the caseworker when a case is picked
2. Better data minimisation at an earlier stage – as illustrated by figure 2
3. Introduction of explicitly written deletion routines

4. Introduction of written collection routines and forms for documenting compliance with the routine.
5. Introduction of a new technical solution to facilitate secure transfers of information between the Norwegian Tax Authority and Nav.
6. Better information about mass data collection on Nav's website, to the benefit recipients when they are initially granted Unemployment Benefit or Work Assessment Allowance and in Nav's privacy statement.
7. A DPIA for mass data collection and data comparison of information from the Currency Transaction Register has been executed, reviewed, and approved.

Furtjermore, Nav will ensure that the following measures are being taken:

- Dialogue with the Norwegian tax Administration to facilitate better technical solutions for sharing information and data minimisation that enables the Norwegian Tax Administration to minimise the data so that Nav does not receive information about aggregated information about transactions where people use a Norwegian card to make transactions abroad whilst physically being in Norway (e.g. online shopping will not be registered as a data component that is sent to Nav).
- Nav will continuously seek to improve the data minimisation as the new control regime goes into effect, as the potential for further minimisation may become evident.

#### **9. New Circular to the National Insurance Act section 21-4 d**

The new circular has not been published in February 2025, as first planned. The reason for this is that Nav's assessment and evaluation have proven to be more time consuming than initially foreseen. The new circular is set to be published in April 2025, but not before we have received the Authority's feedback as agreed upon.

The draft handed over to the Authority in the 2024 Package Meeting is still the latest draft of the circular.

#### **10. Our assessment**

The new control regime is set to come into force when the new circular to section 21-4 d of the National Insurance Act is published, and the employees in Nav Control have received satisfactory training in the new routines pertaining to mass collection of information from the Currency Transaction Register.

If possible, we would appreciate the Authority's feedback within 31 March 2025.

Yours sincerely

Camilla Landsverk  
Deputy Director General

Jens Sandbrekke Wolther  
Adviser

*This document is signed electronically and has therefore no handwritten signature*

Copy

Arbeids- og velferdsdirektoratet