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Brussels, 24 November 2020
Case No: 85895
Document No: 1164017

Ministry of Justice and Public Security
Postboks 8005 Dep
N-0030 Oslo
Norway

Dear Sir/Madam,

Subject: Request for Information concerning an own-initiative case relating to Norwegian restrictions upon entry due to COVID-19

On 19 November 2020, the Internal Market Affairs Directorate (“the Directorate”) of the EFTA Surveillance Authority (“the Authority”) opened an own-initiative case to investigate the application of the Regulations Amending the Covid-19 Regulations in Norway of 6 November 2020 (“the amended regulations”).¹ The Norwegian Government is requested to clarify the position and current practices of the Norwegian authorities responsible for the interpretation and enforcement of the regulations in question.

In particular, the Directorate wishes to draw the attention of the Norwegian Government to Section 5 of the amended regulations, entitled “*Requirements for those who are to be in entry quarantine.*” This provision provides that persons in entry quarantine must stay in quarantine hotels during the quarantine period, and then provides for a list of exceptions to this general rule, including, *inter alia*:

- (a) those who live in or own a home in Norway, and who reside in the home or other suitable place of residence; and
- (b) those who have come to Norway to perform work or assignments, and have an employer or client who has provided a suitable place to stay with a private room during the quarantine period.

In this regard, the Directorate further wishes to draw the attention of the Norwegian Government to *inter alia* Articles 28 and 36 of the Agreement on the European Economic Area (“the EEA Agreement”), and Articles 5, 6 and 7 of Directive 2004/38/EC.²

In order for the Directorate to further examine and assess the case, the Norwegian Government is invited to provide further information and reply to the following questions:

1. Does the Norwegian Government consider that any potential restrictions to the provisions of EEA law dealing with freedom of movement are justified on the grounds of the protection of human health? If so, how has the proportionality of the measure been assessed?

¹ Forskrift om endring i covid-19-forskriften” Determined by Royal Decree no. 6 November 2020 pursuant to Act no. 55 of 5 August 1994 on protection against infectious diseases § 4-3, § 4-3a and § 7-12. The amending regulations entered into force on 9 November 2020.

² The Act referred to at point 1 of Annex V to the EEA Agreement (Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 *on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States* amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC) as adapted to the EEA Agreement by protocol 1 thereto.

2. Are there any other, comparable, requirements to the aforementioned ones already identified by the Directorate, in currently applicable Norwegian law?
3. How and when are members of the public who arrive in Norway informed of the requirement to stay in quarantine hotels?
4. On what legal basis are the exemptions to the requirements to stay in quarantine hotels justified?
5. The amended regulations appear to draw distinctions between:

(a) persons who arrive to work in Norway and who have an employer or client who has provided a suitable place to stay with a private room during the quarantine period, on the one hand [such persons are exempted from staying in quarantine hotels]: and

(b) persons who arrive to work in Norway and who have arranged a suitable place to stay with a private room during the quarantine period for themselves [such persons are obliged to stay in quarantine hotels].

Given that, in both cases, such individuals have an appropriate place to stay for quarantine purposes, what is the basis of this distinction?

6. The amended regulations further distinguish between:

(a) persons who live in or own a home in Norway, and who reside in the home "or other suitable place of residence", on the one hand [such persons are exempted from staying in quarantine hotels]: and

(b) persons who do not live in or own a home in Norway, but who may nonetheless reside in – or wish to reside in - a suitable place of residence for the quarantine period [such persons are obliged to stay in quarantine hotels].

Given that, in both cases, such individuals have a suitable place of residence, what is the basis of this distinction?

7. Are comparable measures in place for persons who travel from one part of Norway where there may be a large number of COVID-19 cases to another part of Norway in which there are very few, for example via internal flights? If not, what is the basis of the distinction drawn between internal and external travel?
8. Given that individuals exempted from the necessity to stay in quarantine hotels will likely incur reduced costs, when compared to the compulsory daily charge levied upon those persons obliged to stay in quarantine hotels, how was the level of the compulsory daily charge calculated, and on what basis is this additional cost justified, given that individuals are obliged to stay in quarantine hotels?
9. How is the compliance of individuals who are exempted from the requirement to stay in quarantine hotels with the requirement to quarantine in another location monitored? Are individuals required to inform authorities of their chosen location for quarantine? Is there a central – or regional – database of such locations? Do the authorities perform periodic checks of compliance with quarantine requirements via visits to registered locations? If not, do the authorities perform any other form of controls or checks for compliance?

10. The Circular on Quarantine Hotels³ requires the relevant municipality to disseminate information about the rights and obligations of the traveller on arrival at the quarantine hotel. How is this achieved in practice? In what languages is such information made available?
11. How do the Norwegian authorities deal with cases of individuals who refuse to stay at quarantine hotels, or who leave before the quarantine period has elapsed? Given that Section 5 of the amended regulations provides that the municipality shall offer the persons staying in quarantine hotels the opportunity to test for SARS-CoV-2 during the quarantine period, if a traveller can show evidence of a negative test, is he or she exempted from the obligation to quarantine further – or at all – in a quarantine hotel?
12. How do the Norwegian authorities deal with cases of individuals who are exempted from the requirement to stay at quarantine hotels, and who therefore quarantine elsewhere, but who leave their place of quarantine before the quarantine period has elapsed? If such a traveller can show evidence of a negative test, is he or she exempted from the obligation to quarantine further – or at all?

The Norwegian Government is invited to submit the above information, as well as any other information it deems relevant to the case, so that it reaches the Authority by *20 December 2020*. Please enclose copies of any relevant national legislation, including English translations if available.

Yours faithfully,

Kristin Saether Bangsund
Deputy Director
Internal Market Affairs Directorate

This document has been electronically authenticated by Kristin Saether Bangsund.

³ G-26/2020