

Case No: 87754  
Doc No: 1481484  
Last updated: 25/09/2024

**Package Meeting in Norway  
24-25 October 2024**

Proposal for discussion points

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Proposal for discussion points

**Veterinary matters  
(Annex I, Chapter I)**

**Responsible case handler(s): Margrét Björk Sigurðardóttir**

**Other participant(s): Janne Britt Krakhellen,  
Sigrún Ingibjörg Gísladóttir**

*1. Failure by Norway to ensure the welfare of laying hens (Case No: 88980)*

The Authority performed an audit in Norway on the protection of laying hens and chicken kept for meat production in November 2022. In the final report of the 2022 audit dated 30 January 2023 (Doc No 1347459), the Authority concluded that recommendations issued during audits in 2009 and 2012 were still not satisfactorily addressed. Consequently, the official controls have, over a prolonged period of time, failed to ensure compliance with the provisions of the EEA legislation relevant for the welfare of laying hens. Previous plans for corrective measures have failed to address the identified shortcomings, including:

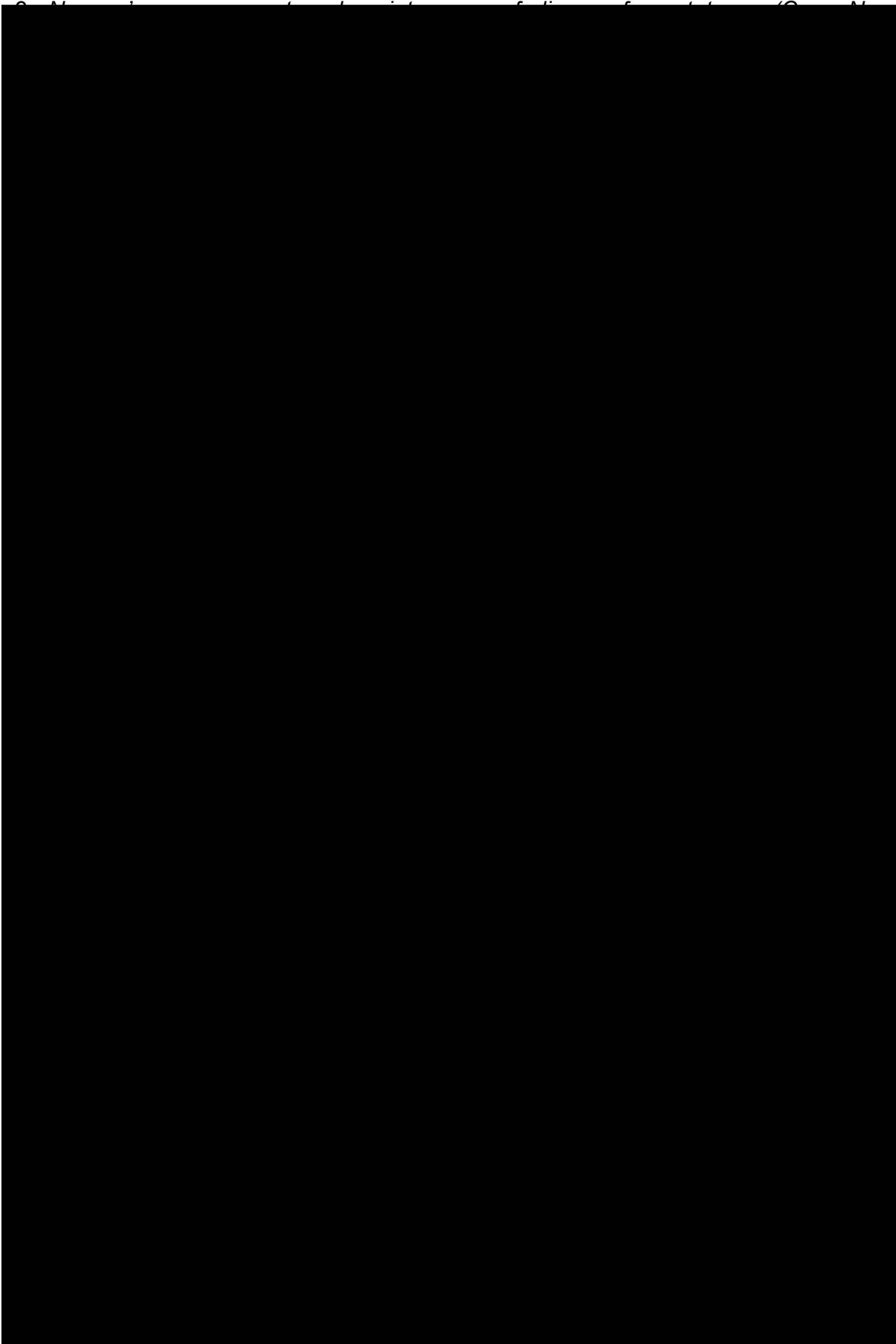
- The obligation to ensure that each establishment is identified by a distinguishing number composed of a digit indicating the farming method determined in accordance with point 2.1 of the Annex to Directive 2002/4/EC;
- Insufficient training and guidance of official veterinarians on how to adequately perform official controls on laying hen holdings;
- Official controls failing to identify non-compliances leading to laying hens being kept in conditions inferior to the minimum animal welfare requirements of EEA law.

The case was discussed at the Package Meeting in 2023. Following the meeting, Norway requested that the Authority postpone a follow-up audit scheduled for autumn 2024 to allow for the implementation of the necessary corrective actions. The Authority agreed to postpone the follow-up audit until early 2025.

**Specific questions to be discussed:**

The Authority invites Norway to provide information on the implementation of corrective action to ensure the welfare of laying hens.

**Estimated time: 45 minutes**

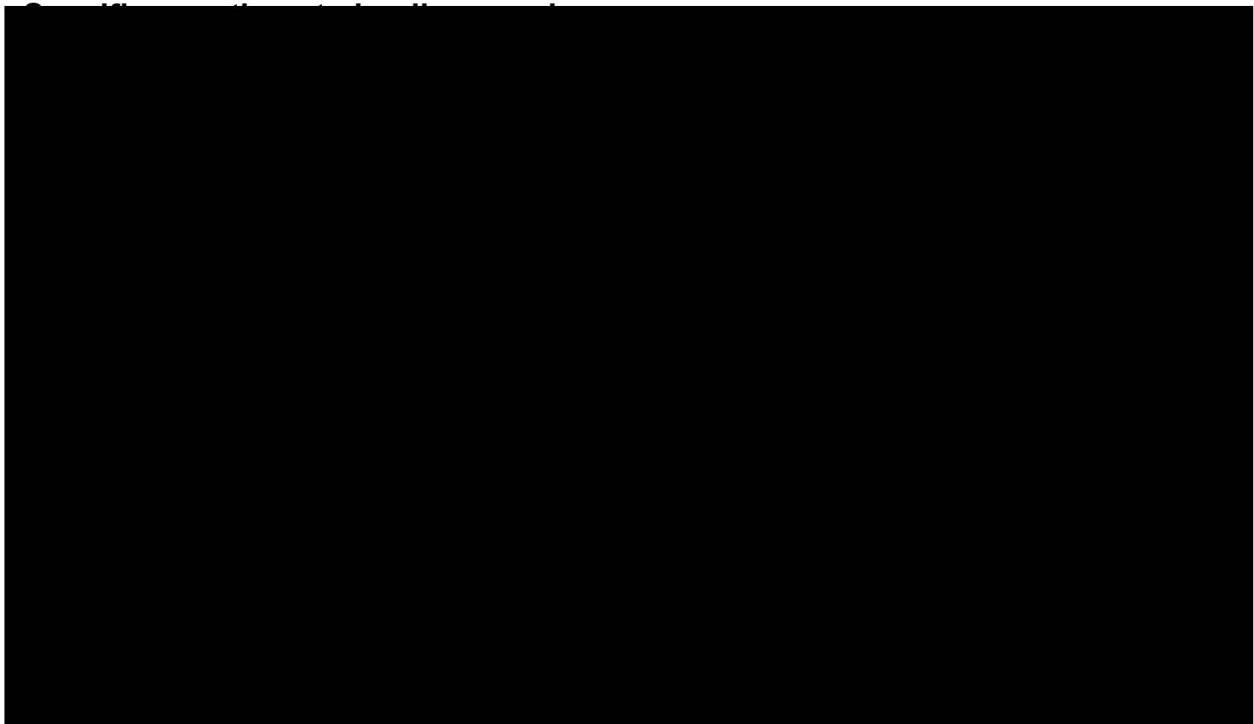




- *Notifications of outbreaks epizootic diseases:*

At the Package Meeting in Norway on 26 October 2023, the Authority raised certain issues regarding Norway's response to outbreaks of epizootic diseases and in particular the accuracy and timeliness of the notifications from Norway in the European Animal Disease Information System (ADIS) (Doc No 1423584).

On 6 February 2024, the Authority issued a recommendation, following an audit to Norway to evaluate official controls related to Avian Influenza and Newcastle disease, that the competent authority should ensure that all outbreaks of listed diseases are notified through ADIS within the prescribed timeframes and that all relevant information is included in the notification (Doc No 1432423).



3. *Communications regarding safety of eggs (Case No: 92245)*

On 7 June 2024, the Authority sent Norway a letter (Doc No 1461547) concerning communications from the Norwegian Food Safety Authority regarding the safety of eggs originating in other EEA States. The Authority noted that these communications encouraged consumers to check the origin of table eggs on the market in Norway and to apply extra safety measures if the eggs did not originate in the Nordic countries.

Pursuant to Regulation (EC) 1688/2005, there are special guarantees concerning salmonella in place for consignments of eggs intended for Norway. These special guarantees entail that eggs destined for the Norwegian market must originate from flocks tested in line with the sampling requirements laid down in (EC) Regulation 2160/2003 and be accompanied by a certificate to this effect, issued by the competent authorities in the EEA State of origin.

At the time the letter was sent, the Authority had received informal information that all consignments of eggs from non-Nordic countries had been accompanied by the required salmonella certificates, and that no sampling had been carried out by Norway to verify the presence of salmonella in these consignments. Furthermore, there was no suspicion or confirmation of salmonella outbreaks in Norway linked to eggs originating from other EEA States.

**Specific questions to be discussed:**

The Authority would like to discuss how Norway ensures that public communications regarding the safety of food products originating in other EEA States is not misleading or unfairly targeting products from other Contracting Parties.

In this context, the Authority would like to discuss how Norway concluded that there were food safety concerns regarding table eggs and if these findings were communicated through the relevant EEA channels.

**Estimated time: 45 minutes**

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**Foodstuffs  
(Annex II, Chapter XII)**

**Responsible case handler(s): Margrét Björk Sigurðardóttir**

**Other participant(s): Janne Britt Krakhellen**

**Ewa Gromnicka**

*1. Non-organic salmon sold as organic salmon (Case No: 92127)*

The Authority opened an own initiative case on 30 April 2024 to investigate the application of the requirements for official controls performed for the verification of compliance with the rules on organic production and labelling of organic products in Norway, to ascertain whether Norwegian authorities took the required action to address cases of non-compliance and to identify violations perpetrated through fraudulent or deceptive practices.

The case was opened following receipt of a letter from the Directorate-General for Agriculture and Rural Development of the European Commission ('DG AGRI') to the Norwegian Government dated 22 April 2024 (Doc No 1453735; their ref. Ares(2024)2949382-22/04/2024) containing information of reported non-compliance by Norwegian food business operators concerning conventional salmon marketed as organic salmon.

The Authority sent a request for information to Norway on 16 July 2024 (Doc No 1453740) to which the Norwegian Ministry of Trade, Industry and Fisheries replied to by a letter dated 5 September 2024 (Doc No 1480426, your ref. 24/5250-6).

**Specific questions to be discussed:**

The Authority would like to discuss the information provided by Norway in response to the request for information.

In light of the context of the case, the Authority would like to specifically discuss how the Norwegian Government ensures:

- i. The coordination between the competent authorities and the delegated bodies with responsibilities for official controls of organic production in cases of non-compliance;
- ii. The reporting and follow-up of non-compliance in OFIS;
- iii. The appropriate follow-up and measures taken in cases of non-compliance.

**Estimated time: 1 hour**

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**Medicinal Products  
(Annex II)**

**Responsible case handler(s):** Guðlaug Jónasdóttir

**Other participant(s):** Margrét Björk Sigurðardóttir

*1. Complaint against Norway concerning the protection of animals used for scientific purposes (inspections of breeders, suppliers and users) (Case No: 90255)*

On 27 March 2023, the Authority received a complaint against Norway concerning the protection of animals used for scientific purposes, in particular as regards inspections of breeders, suppliers and users carried out under Directive 2010/63/EU (“the Directive”) (Doc Nos 1363084 and 1363085).

By letter dated 4 September 2023 (Doc No 1396969; your ref. 23/1382-), the Norwegian Government replied to the Authority’s request for information dated 26 June 2023 (Doc No 1378202). In the letter the Norwegian Government provided information concerning the number of inspections carried out on breeders, suppliers and users from 2018 until 2022, and the general procedure concerning such inspections as well as the steps taken by the Norwegian Food Safety Authority (“NFSA”) to promote alternative methods on the use of animals at national level.

The case was discussed at the Package Meeting in October 2023.

On 12 January 2024, the Norwegian Government replied to the Authority’s follow-up letter to the Package Meeting (Doc No 1417352) and provided additional information on digital inspections (Doc Nos 1429209 and 1429213; your ref. Case No 23/136299). By letter dated 23 August 2024 (Doc Nos 1477734 and 1477736; your ref. 23/1382-), the Norwegian Government provided the Authority with information on the number of authorised breeders, suppliers and users in 2023 as well as the number of inspections carried out that year.

At the Package Meeting, the Authority would like to discuss generally the inspections of breeders, suppliers and users under the Directive, with special focus on the questions set out below. In addition, the Authority would like to present its preliminary view of the case, in light of the information provided so far by the Norwegian Government.

**Specific questions to be discussed:**

- i. Given that the EEA States’ reporting obligations on the one hand and inspections of breeders, suppliers and users on the other fall under different provisions of the Directive, what are the reasons for considering that the

evaluation of information received to comply with a reporting obligation constitutes an inspection according to Article 34 of the Directive?

- ii. Does the Norwegian Government find it sufficient that document checks/inspections (without physical inspections) constitute the majority of inspections in Norway for the past six years?
  - a. How does it fit with the requirement in Article 34(1) of the Directive that inspections are carried out “*to verify compliance with the requirements of [the] Directive*”?
  - b. Has it been discussed to change the emphasis in this regard?
  - c. Does the Norwegian Government use the Inspection *Aide Memoire* set out in Appendix II to the *working document on inspections and enforcement to fulfil the requirements under the Directive*<sup>1</sup> when deciding which elements to inspect?
- iii. In the letter of 23 August 2024, it was mentioned that nine physical inspections and six digital inspections in establishments were carried out in 2023. Was there any significant difference in the outcome of these inspections related to whether they were carried out physically or digitally?
- iv. Was there a difference between the issues that were being inspected based on whether the inspection was carried out digitally or physically?
- v. In the letters of 4 September 2023 and 23 August 2024, it was mentioned that the geographical circumstances in Norway result in it being difficult to carry out unannounced inspections in more remote areas of Norway.
  - a. What is roughly the division between the establishments that are located in the more remote areas of Norway and those that are not?
  - b. Are inspections in the more remote areas, ever carried out unannounced?
  - c. How is it decided where to carry out an unannounced inspection and what are the factors influencing that decision?

**Estimated time: 45 minutes**

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<sup>1</sup> The working document can be accessed at the following hyperlink:  
<https://op.europa.eu/en/publication-detail/-/publication/afdd3089-2554-11e9-8d04-01aa75ed71a1/language-en>.



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**Free Movement of Goods and Services  
(Annex II, Articles 11 and 36)**

**Responsible case handler(s): Joachim Nilsen Frislid**

**Other participant(s):**

**Maria Moustakali**

**Erlend Leonhardsen**

**Sigrún Ingibjörg Gísladóttir (Item 1)**

*1. Complaint against Norwegian prohibition on advertising of alcoholic beverages  
(Case No: 92228)*

According to a complaint received by the Authority, the Norwegian general prohibition on advertising for alcoholic beverages is contrary to EEA law.

The Authority notes that this prohibition has already been challenged through a legal process, known as the *PediceI* case, which reached the EFTA Court in case E-4/04<sup>2</sup> and the Norwegian Supreme Court in 2009<sup>3</sup>.

The general advertising prohibition constitutes a restriction under Articles 11 and 36 of the EEA Agreement. This was confirmed by the EFTA Court and accepted by the Norwegian Government and courts in the *PediceI* case<sup>4</sup>.

In the *PediceI* case, the EFTA Court indicated that this restriction might nevertheless be justified by reasons related to the protection of public health. The proportionality of the advertising prohibition was then assessed by several Norwegian courts, ending with the Supreme Court concluding that the prohibition was proportionate to the aim of protecting public health and therefore justifiable under EEA law.

In the current complaint, the Authority is not asked to comment on the *PediceI* case as such. Instead, the complainant requests the Authority to investigate whether an updated assessment, taking into account developments that have taken place in fact and law since the Supreme Court's judgment was delivered in 2009, might show that the prohibition now infringes Norway's obligations under EEA law.

The Authority issued a request for information on 9 July 2024 (Doc No 1468470). The reply from Norway is expected in October 2024 ahead of the Package meeting.

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<sup>2</sup> Case E-4/04, *PediceI*, [2005] EFTA Ct. Rep. 1.

<sup>3</sup> Judgment by the Supreme Court of Norway, 24 June 2009, Rt. 2009 p. 839, *PediceI*.

<sup>4</sup> Case E-4/04, *PediceI*, as cited above, para 50, and the Supreme Court's judgment, as cited above, para 14.

**Specific questions to be discussed:**

The Authority would like to hear the Norwegian Government's view on the following:

- i. Is the prohibition on advertising of alcoholic beverages – by including advertising in online and offline speciality magazines for food and drinks, published in Norway – consistent with current Norwegian alcohol policy?
- ii. How is the prohibition on advertising of alcoholic beverages in online and offline speciality magazines for food and drinks suitable to promote the aim of protecting public health, since it can only be assumed to have marginal effects on the total consumption of alcohol, if any?
- iii. Is the prohibition on advertising of alcoholic beverages in speciality magazines necessary to meet the aim of protecting public health, since the same objective could arguably be pursued equally effectively by other measures, which are less restrictive to intra-EEA trade?

**Estimated time: 45 minutes****2. Notification obligations under the Single Market Transparency Directive (Case No: 91784)**

Under the Single Market Transparency Directive (the Directive)<sup>5</sup>, the EEA EFTA States are required to notify draft technical regulations to the Authority. This gives other EEA countries, the European Commission, the Authority and economic operators the opportunity to check draft national rules, so that possible restrictions to the free movement of goods and digital services can be identified and resulting internal market problems can be solved at an early stage.

The Authority has screened legislation adopted by the EEA EFTA States in 2022 and 2023, with a view to verifying that the States complied with their notification obligations during that time. The results of the screening have prompted the Internal Market Affairs Directorate of the Authority (the Directorate) to issue requests for information to all three States.

In the case of Norway, the request for information of 13 March 2024 (Doc No 1441858) included 36 measures which had not been notified, but which, *prima facie*, appeared to include technical regulations. Based on explanations provided by Norway on 30 April 2024 and 14 May 2024 (Doc Nos 1453285 and 1458046), the Directorate has accepted that the lack of notification of some of these regulations did not constitute any failure to respect obligations under the Directive. Nevertheless, some concerns remain, which the Directorate described in a supplementary request for information of 18 June 2024 (Doc No 1460373). The reply was received, after an extension was granted on 17 September 2024 (Doc No 1483344; your ref. 23/1664-).

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<sup>5</sup> Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services.

Notably, the Norwegian Government has expressed the view that notification of draft regulations pertaining to geographical indications for foodstuffs is not required under the Directive, since regulations on geographical indications for foodstuffs fall outside the scope of the EEA Agreement. However, the Directorate, in its supplementary request for information, set out a different view.

The Directorate bases its view on Article 23, first subparagraph, point (a) of the EEA Agreement, which says that specific provisions and arrangements are laid down in Annex II *“in relation to technical regulations, standards, testing and certification”*. Importantly, the second subparagraph of Article 23 indicates that the specific provisions and arrangements mentioned in the first subparagraph *“apply to all products unless otherwise specified”*. Given that the Directive regulates technical regulations and is referred to in Annex II of the EEA Agreement, the Directorate has taken the view that the specific provisions and arrangements mentioned in the first subparagraph of Article 23 are applicable.

Article 1(1)(a) of the Directive defines *“products”* for the purposes of this Directive as *“any industrially manufactured product and any agricultural product, including fish products”*. No adaptations were made to this definition when the Directive was implemented in the EEA Agreement. The Directorate has therefore taken the view that the notification obligations under the Directive apply to *“all products”*, without regard to the general scope of the EEA Agreement.

Accordingly, in the supplementary request for information, the Directorate expressed the view that the scope of the Directive is broader than the general scope of the EEA Agreement, and that Norway is therefore required to notify draft technical regulations related to geographical indications for foodstuffs, without regard to the general scope of the EEA Agreement.

### **Specific questions to be discussed:**

The Norwegian Government is invited to elaborate on why it considers that notification of draft technical regulations related to geographical indications for foodstuffs is not required under the Single Market Transparency Directive.

**Estimated time: 30 minutes**

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**Social Security  
(Annex VI)**

**Responsible case handler(s):** **Gaukur Jörundsson (Item 1)**  
**Per-Arvid Sjøgård (Items 2 and 3)**

**Other participant(s):** **Bernhard Zaglmayer (Item 1)**  
**Maria Moustakali (Items 2 and 3)**  
**Ewa Gromnicka**  
**Sigrún Ingibjörg Gísladóttir (Items 2 and 3)**

*1. Accrual of old-age pensions through taxation of disability benefits in Norway (Case No: 92185)*

On 6 May 2024, the Authority received a complaint against Norway concerning the accrual of old-age pension rights when an individual receives invalidity benefits from another EEA State.

According to the complaint, invalidity benefits have not been considered pensionable income in Norway since 2015, but instead pension accrual is determined based on the income that the invalidity benefits replace (presumed income). However, when the invalidity benefits are received from another EEA State, a calculation for pension accrual is not conducted by the responsible authority. The result is that invalidity benefits received from another EEA State do not contribute to the accrual of old-age pension benefits, unlike corresponding invalidity benefits received from Norway. This is despite the fact that they are taxed exactly the same way and subject to deduction of social security contributions. The complainant argues that this practice is in violation of the basic principles of equality of treatment and non-discrimination of the EEA Agreement, including Articles 4 and 5 of Regulation 883/2004 on the coordination of social security systems.

The Authority sent a request for information on 22 August 2024 (Doc No 1475489). The deadline for the Norwegian Government to reply is 30 September 2024.

**Specific questions to be discussed:**

The Authority would like to discuss the Norwegian Government's reply.

**Estimated time: 45 minutes**

## 2. Restrictions on cross-border labour market measures (Case No: 91342)

Norwegian labour market measures aim to strengthen a person's chances of obtaining or retaining work. Examples are workplace training programs, education, allocation of a functional assistant or a mentor, and wage subsidies to employers who would otherwise be reluctant to hire.

The various types of labour market measures are set out in a national Regulation on Labour Market Measures. The granting of most such measures, for example *training* ("opplæring") in various forms, is subject to a basic requirement of residence and establishment in Norway pursuant to Section 2 of the national Labour Market Act.

Evidently, those basic requirements entail significant limitations on the possibility of undertaking labour market measures in an "EEA setting", i.e. where the individual concerned and/or the entity involved are not firmly embedded in Norway. For example, as regards *training*, a woman who wished to move to Denmark with her family while undertaking an otherwise approved web-based education, saw her application rejected with reference to the requirement of residence in Norway<sup>6</sup>.

Furthermore, according to an enquiry lodged with the Authority, a person requesting to finalise higher education while remaining a resident of Norway, was rejected because the institution in question was established in another EEA State. Similarly, another enquiry registered with the Authority suggests that a language course organised by an entity located in another EEA State was rejected on the sole ground that it was not part of the Erasmus programme.

Provided that the national rules at issue do not fall within the scope of Regulation 883/2004 (EC), it would appear *prima facie* that they nevertheless constitute restrictions on the fundamental freedoms of the EEA Agreement.

### Specific questions to be discussed:

- i. In the most recent year(s), how many persons were undertaking any of the labour market measures provided for by the national Regulation on Labour Market Measures? How many of those were at the same time receiving a social security benefit and which type?
- ii. In the most recent year(s), how many persons received *training* (opplæring) pursuant to chapter 7 of the Regulation on Labour Market Measures and how are the numbers divided between the different, specific measures provided for by Section 7-2 a) – c)?
- iii. The term "work-oriented measures" (arbeidsrettede tiltak) does not appear to be defined in the national legislation. With regard to the work assessment allowance, it is specified that by "work-oriented measure" in Section 11-6 (1) b) of the National Insurance Act, is meant e.g. a labour market measure, see Section 2 of the Regulation on work assessment allowance. However, it is not clear what is meant by "work-oriented measures" in other provisions, such as but not excluded to Sections 8-4(1) c), 8-7a (1) and (4) as well as Section

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<sup>6</sup> Article published on the website aap-aksjonen.no, entitled "NAV: Får ikke ta utdanning i utlandet".

8-8(3) on sick-pay. Equally, it is not clear what is meant by the same term in Section 12-5 NIA on disability benefit. Please explain how this term is to be understood and, importantly, based on what sources;

- iv. The term “arbeidsmarkedstiltak” does not appear to be defined in national legislation either, see e.g. Section 4-5 of the National Insurance Act as regards unemployment benefit. Please explain how this term is to be understood and, importantly, based on what sources;
- v. With reference to the previous questions, Norway is invited to explain the relationship between “work-oriented measures” and “labour market measures”;
- vi. In its response to the Authority's request for information, Norway stated that “labour market measures aim to prepare and qualify people for the national labour market” (letter dated 22 January 2024, p. 5). Norway is invited to elaborate in much further detail about *what* objectives lie behind the restrictions set out in Section 2(1) of the national Labour Market Act;
- vii. In light of the aim pursued by Section 2(1) of the national Labour Market Act, Norway is invited to clarify whether alternative, less onerous measures were considered (e.g. a prior approval scheme);
- viii. One of the requirements set out in Section 2(1) of the national Labour Market Act is that in order to be eligible for a labour market measure, the person concerned must have “legal residence” in Norway. In its response to the Authority's request for information, Norway stated that “this does not entail that the person has to stay in Norway continuously”. Norway is invited to clarify what type of stays outside of Norway is permissible as regards labour market measures and, also, what criteria are applied and on what sources they build.

**Estimated time: 45 minutes**

**3. Norwegian rules on the award of a supplement pursuant to Article 58 of Regulation 883/2004 (Case No: 84870)**

By letter dated 24 February 2020 (Doc No 1115996), the Authority informed the Norwegian Government of the opening of an own-initiative case to examine whether Norwegian law provided for a minimum pension benefit within the scope of Article 58 of Regulation 883/2004 (EC) on the coordination of social security systems, with the concomitant obligation to award a supplement to certain pensioners.

The correspondence between the Authority and Norway made clear that, in the view of the Norwegian Government, its national law did not provide for a minimum pension within the scope of Article 58 of Regulation 883/2004.

In its judgment in Case E-3/23, handed down on 18 April 2024, the EFTA Court concluded that the Norwegian rules do constitute minimum benefits within the scope of Article 58 of Regulation 883/2204. The judgment from the referring, national court is, as per 2 September 2024, still pending but expected prior to the Package Meeting.

**Specific questions to be discussed:**

- i. The Norwegian government is invited to clarify how it intends to implement the judgment of the EFTA Court in Case E-3/23 (regardless of whether the judgment of the referring court has been given prior to the Package Meeting);
- ii. The Norwegian Government is invited to explain what measures it foresees to undertake with a view to ensuring appropriate remedies to all individuals affected by the incorrect application of EEA law in this matter.

**Estimated time: 45 minutes**

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**Professional Qualifications  
(Annex VII)**

**Responsible case handler(s): Bernhard Zaglmayer**

**Other participant(s): Maria Moustakali**

**Erlend Leonhardsen (Item 4)**

*1. Own-initiative case regarding the setup of the Point of Single Contact (PSC) in Norway (Case No: 84852)*

By letter dated 18 February 2020 (Doc No 1114716), the EFTA Surveillance Authority (“the Authority”) informed the Norwegian Government that it had opened an own initiative case concerning the setup of the Point of Single Contact (PSC) for foreign service providers in Norway. In that letter, the Authority requested information on various issues related to the performance of the PSC for the purpose of fully implementing and applying the Services Directive, the Professional Qualifications Directive and the eIDAS Regulation (interoperability of electronic identification systems).

During regular correspondence over the years, it seemed to the Authority that not all aspects of the PSC were put in place. Therefore, a letter of formal notice was issued on 5 July 2023 (Doc No 1332144) containing, in particular, references to missing information and available online procedures on or via the PSC. On 3 October 2023, the Norwegian Government replied to the letter of formal notice (Doc No 1402338; your ref. 20/1086-71) agreeing in essence with the Authority’s assessment. The Norwegian Government also committed to improve the performance of the PSC. These issues were discussed in detail at the Package Meeting in October 2023 and summarised in the Authority’s follow-up letter dated 17 November 2023 (Doc No 1414128). According to the Norwegian Government, the problems were envisaged to be solved by 1 January 2024.

By letter dated 15 January 2024 (Doc No 1429993; your ref. 20/1086-83), the Norwegian Government informed the Authority that parts of the revision of the information regarding establishment and temporary service provision would require substantial amendments in the infrastructure of the PSC and were thus not yet finalised. Also, the problem with providing links from the *Altinn* platform directly to the municipalities’ websites was not yet finalised, since there were several projects ongoing at the same time where municipalities agreed to have joint solutions for electronic applications for licenses.

The Authority would like to make use of the meeting to discuss the already finalised amendments and to receive information on the outstanding aspects as addressed in the letter of formal notice as promised by Norway in its latest correspondence.



**Estimated time: 1 hour****2. *Conformity assessment of Directive 2005/36/EC on the recognition of professional qualifications (Case No: 89499)***

By letter dated 6 September 2023, the EFTA Surveillance Authority (“the Authority”) opened its assessment for the conformity of Directive 2005/36 on the recognition of professional qualifications (Doc No 1395018) by requesting a table of correspondence, which was received on 10 November 2023. At the Package Meeting on 26 October 2023, the Authority explained that a conformity assessment not only focuses on the national legislation implementing the directives, but also needs to take into account the systems that have to be put in place and administered or fed by the States on the basis of the directives, as those systems make the whole system of recognition of professional qualifications work. That is first and foremost the database of regulated professions with mandatory submission of statistics and reports, the European Professional Card (EPC) and the alert system in the Internal Market Information (IMI) system and the Point of Single Contact (the latter is scrutinised by the Authority in a separate case (Case No 84852)).

In conclusion of the discussions, the Norwegian Government was invited in the Authority’s follow-up letter of 22 November 2023 (Doc No 1414133) to keep the Authority informed about some of the aspects, in particular, of the outcome of the assessment of ship captain and fire fighters in terms of whether they would be considered by Norway to fall under the public authority exemption; the inclusion of professions in the data base of regulated professions which are based on specific sector legislation, such as the transport sector; of its intentions to re-assess the notifications of professions requiring a prior qualifications check for temporary and occasional service providers under Article 7(4) PQD.

The Norwegian Government submitted additional information about statistics of alerts reading professionals issued in Norway for the information of other EEA States by e-mail of 16 May 2024 and has also submitted updated statistics regarding the database of regulated professions. Moreover, by letter dated 6 June 2024 (Doc No 1462006; your ref: 23/3917-), information as to the necessity to require prior qualification assessments for temporary and occasional service providers was sent to the Authority, including statements from some relevant Ministries.

The Authority would like to make use of the meeting to discuss some outstanding issues as well as the information submitted, in particular, regarding professions covered by Article 7(4) PQD. For the latter point, it would be appreciated that representatives of the relevant Ministries, in particular those who have not submitted written comments to the Ministry of Education and Research would be present for that part of the meeting.

**Estimated time: 1 hour**

3. *Conformity assessment of Directive 2018/958/EU on a proportionality test before introducing new professional regulation (Case No: 91650)*

By letter dated 12 February 2024, the EFTA Surveillance Authority (“the Authority”) opened its assessment for the conformity of Directive 2018/958/EU in Norway with a request for information (Doc No 11434069). The Norwegian Government replied by letter dated 22 June 2024 (Doc No 1465885; your ref. 17/187-).

The Authority would like to use the meeting to clarify certain aspects of the replies of the Norwegian Government, in particular, the scope of the Directive and exceptions for public consultations when introducing new regulation for professions.

**Estimated time: 30 minutes**

4. *Lack of compensation measures for the recognition of dieticians and other health professions in Norway (Case No: 91996)*

On 8 April 2024, the EFTA Surveillance Authority (“the Authority”) opened an own initiative case to investigate the application of Article 14 of Directive 2005/36/EC on the recognition of professional qualifications (PQD) for the profession of dieticians in Norway.

It came to the Authority’s attention that in cases where there are substantial differences in education/training in that profession, applicants, for recognition of their qualifications, are not offered a choice between an aptitude test and a supervised training period as required by Article 14 PQD, but they are imposed the latter option by the competent Norwegian authorities, namely the Directorate of Health. However, it is apparently nearly impossible to find a placement for such training period, since the authorities insist on the training to be taken at university hospitals, which do not seem to be familiar with the concept of a supervised practice period according to Article 14 PQD and would thus in practice not offer such placements. This would lead to an impossibility for foreign qualifications to be recognized in the health sector under the general system recognition in Norway, which concerns primarily all kinds of therapists, psychologists, dieticians and health assistants. The issue does not seem to be related to wrong implementation of PQD in legislation, but of a malpractice of the competent authorities.

A request for information was sent to the Norwegian Government on 9 April 2024 (Doc No 1448536) to which a reply was received on 13 May 2024 (Doc No 1456502; your ref 24/1436). In that reply the Norwegian Government confirms that currently no aptitude tests are available, not only for dieticians, but for essentially all health professions. Moreover, the training institutions are not actively informed about the different compensation measures that are foreseen by PQD. The Norwegian Government committed to look into this and find solutions to the lack of accessibility of compensation measures to foreign health professionals.

The Authority would like to use the meeting to be updated on the initiatives taken in the meantime to guarantee the availability of compensation measures as required by Article 14 PQD in general, and how current applicants for recognition awaiting access

to such measures are being processed. A letter of formal notice was adopted on 25 September 2024 (Doc No 1459443).

**Estimated time: 1 hour**

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**Right of establishment  
(Annex VIII)**

**Responsible case handler(s): Gaukur Jörundsson**

**Other participant(s): Maria Moustakali**

**Erlend Leonhardsen**

*1. Complaint concerning Norwegian Municipalities' Right of First Refusal to Rental Properties (Case No: 91991)*

On 16 November 2023, the EFTA Surveillance Authority (“the Authority”) received a complaint against Norway. The complaint argues that Norwegian municipalities’ right of first refusal or pre-emption right to acquire rental properties, as set out in Act No 34 of 29 April 1977 (*LOV-1977-04-29-34 om kommunal forkjøpsrett til leiegårder (leiegårdsloven)*), entails restrictions incompatible with Article 40 of the EEA Agreement on free movement of capital.

The Authority sent a request for information on 23 August 2024 (Doc No 1475447). The deadline for Norway to reply is 30 September 2024.

**Specific questions to be discussed:**

The Authority would like to discuss the Norwegian Government’s reply.

**Estimated time: 1 hour**

**Package Meeting in Norway  
24-25 October 2024**

Proposal for discussion points

**Financial Services  
(Annex IX)**

**Responsible case handler(s):** Marianne Arvei Moen (Items 1-3)

Valdimar Hjartarson (Items 4-5)

**Other participant(s):**

Valdimar Hjartarson (Items 1-3)

Marianne Arvei Moen (Items 4-5)

Marco Uccelli (Items 1-5)

*1. IRB calculations in Norway (Case No: 88178)*

On 21 October 2022, the EFTA Surveillance Authority (“the Authority”) submitted a request for information (Doc No 1313042) concerning guidelines issued by the Financial Supervisory Authority of Norway (“the Norwegian FSA”) on requirements for internal ratings-based (IRB) models “Circular 3/2021 Requirement for IRB models for banks, mortgage companies and finance companies” (“the Circular”). The IRB approach allows banks to calculate risk weights and capital requirements for credit risk based on their own estimates of risk parameters. The Circular set out the Norwegian FSA’s expectations regarding banks’ use of the IRB approach.

The Authority is assessing whether certain rules found in the Circular go beyond the current applicable EEA law, including but not limited to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms (CRR), as amended and incorporated into the EEA Agreement. On 25 November 2022, the Authority received the reply to the request for information (Doc No 1336984; your ref. 22/5559 - 4) by the Norwegian Ministry of Finance, where the Norwegian Government considers the Circular to be in compliance with the applicable EEA law.

The case was discussed at the Package Meeting on 26 October 2023, and a follow-up letter was submitted by the Authority on 5 December 2023 (Doc No 1420879). The Norwegian Government replied to the follow-up letter on 25 January 2024 (Document 1431732; your ref. 22/5559 -).

**Specific questions to be discussed:**

The Authority would like to discuss the case based on the latest correspondence ahead of the meeting. In particular, the Authority wishes to be informed about the status of the Circular and any potential amendments thereto.

**Estimated time: 45 minutes**

2. *Conformity assessment of national measures implementing Directive 2014/65/EU on markets in financial instruments (MiFID II) (Case No: 87596)*

By EEA Joint Committee Decision No 78/2019 of 29 March 2019, Annex IX to the Agreement on the European Economic Area was amended by adding at points 13b and 31ba the following Act:

*Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast) ("MiFID II" or "the Directive").*

Following the fulfilment of constitutional requirements, the decision entered into force on 3 December 2019. By letter dated 7 April 2020 (Doc No 1126150), the Authority invited the Norwegian Government to submit a Table of Correspondence ("ToC") for the Directive. By letter dated 31 August 2020 (Doc No 1149929; your ref. 17/3058-), the Authority received the requested ToC (Doc No 1149931).

A request for information regarding the response to the ToC was sent on 5 October 2023 (Doc No 1402705) and was discussed at the Package Meeting on 26 October 2023. A reply to the request for information was submitted by the Norwegian Government on 30 November 2023 (Doc No 1418926; your ref. 17/3058-).

By letter dated 5 July 2024, the Authority requested that the Norwegian Government provide an update on several provisions. (Doc No 1448402).

**Specific questions to be discussed:**

The Authority intends to discuss Norway's forthcoming reply to the supplementary request for information.

**Estimated time: 30 minutes**

3. *Conformity assessment of national measures implementing Directive 2015/2366 on payment services in the internal market (PSD II) (Case No: 91568)*

*Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC - PSD II ("the Directive")* was incorporated into the EEA Agreement by Joint Committee Decision No 165/2019 of 14 June 2019 at point 14, 31e, 31g, 15, 16e and 16ea of Annex IX to the EEA Agreement.

Following the fulfilment of constitutional requirements, the decision entered into force on 1 May 2022, which represents the compliance date for the Directive with regard to the EEA EFTA States. In a Form 1 submitted to the Authority dated 16 September 2022, Norway notified full implementation of the Directive from 1 April 2019 (Doc No 1313460).

The Authority decided to perform a conformity assessment of the national measures implementing the Directive in Norway. By letter dated 29 February 2024 (Doc No 1435227), the Authority invited the Norwegian Government to submit a Table of Correspondence ("ToC") for the Directive.

The Norwegian Government submitted a reply to the ToC on 15 May 2024 (Doc No 1456611; your ref. 24/1339-) which is currently being assessed by the Authority.

### **Specific questions to be discussed:**

The Authority intends to discuss the case based on its preliminary assessment and any further correspondence ahead of the meeting.

### **Estimated time: 45 minutes**

4. *Conformity assessment – Directive 2013/36 – CRD IV - NOR (Case No: 85959)*  
*Conformity assessment – Directive 2019/878 – CRD V – NOR (Case No: 89626)*

The conformity assessment of Directive 2013/36 (CRD IV) was initiated by the Authority's letter of 2 February 2021 (Doc No 1177382). The Norwegian Government replied to the initial letter on 29 April 2021 (Doc No 1200663; your ref. 21/688-) and with further submissions made on 11 May 2021, including the requested Table of Correspondence (ToC) (Doc No 1200536).

By letter of 28 March 2023 (Doc No 1330780), the Authority invited the Norwegian Government to provide preliminary clarifications concerning the completeness of implementation of CRD IV. The Norwegian Government replied on 24 May 2023 (Doc No 1375336; your ref. 21/688-) and submitted a new ToC (Doc No 1375338) in which it clarified its position on the implementation of certain articles.

By letter of 3 October 2023 (Doc No 1397729), the Authority requested further clarifications on the information provided in the ToC. These questions were partially discussed at the Package Meeting in Norway in August 2023 and later answered by the Norwegian Government's letter of 16 November 2023 (Doc No 1414576; your ref. 21/688).

By letter of 3 April 2024 (Doc No 1447633), the Authority requested further clarifications on certain outstanding issues concerning the implementation of CRD IV, which were replied to by the Norwegian Government's letter of 29 May 2024 (Doc No 1459302; your ref. 21/688-).

The conformity assessment of Directive 2019/878 (CRD V, which amends CRD IV) was initiated in a separate case by letter of 18 January 2023 (Doc No 1345636). The Norwegian Government sent its initial reply, including a table of correspondence, by letter of 14 March 2023 (Doc No 1359366; your ref. 19/2867-).

On 18 December 2023, the Authority requested clarifications on the Norwegian implementation of CRD V (Doc No 1425204), which the Norwegian Government provided in its letter of 3 May 2024 (Doc No 1454777; your ref. 24/1819).

The two cases concern the same Directive, i.e. the original CRD IV and the amendment to it referred to as CRD V. These cases are at a similar stage in the conformity assessment and, for convenience, should from this point onwards be processed as a single case. Currently there is a combined total number of 8 outstanding issues concerning the implementation of CRD IV and V. In all cases Norway has either agreed to make the relevant amendments or stated that they will consider making amendments when CRD VI is implemented.

**Specific questions to be discussed:**

- i. What is Norway's view on the 8 separate issues found during the conformity assessments of CRD IV and CRD V? In particular, what is the legal basis for Finanstilsynet to make public statements identifying the relevant parties subject to administrative fines according to Articles 66(2)(a) and 67(2)(a) CRD?
- ii. For 7 of the issues found in the conformity assessments, Norway states that they "will consider possible amendments to the legislation in connection with the work that is to be undertaken in order to implement the Banking Package 2021 (CRR3 and CRD6)". Norway is invited to further elaborate;
- iii. What is Norway's timeline for the implementation of CRD6 and therefore the amendment of the provision at issue?

**Estimated time: 30 minutes**

*5. Conformity Assessment – Directive 2014/59 – BRRD – NOR (Case No: 90777)*

By letter of 17 July 2023 (Doc No 1457042), the Authority started a conformity assessment of Directive 2014/59 (BRRD). Norway sent its Table of Correspondence for the implementation of the BRRD into Norwegian national law by letter of 6 November 2023 (Doc No 1410802; your ref. 23/3600-).

Having reviewed Norway's initial responses, the Authority sent a request for information to Norway by letter of 26 June 2024 (Doc No 1457042). In the letter, the Authority requested clarification on 28 separate issues concerning the implementation of BRRD with a deadline of 23 September 2024.

**Specific questions to be discussed:**

At the meeting, the Authority wishes to discuss any outstanding issues based on Norway's forthcoming reply.

**Estimated time: 45 minutes**



**Package Meeting in Norway  
24-25 October 2024**

Proposal for discussion points

**Postal Services / Data Protection  
(Annex XI)**

**Responsible case handler(s):** **Agnieszka Bielińska (Item1)**  
**Ciarán Burke (Item 2)**

**Other participant(s):** **Valgerður Guðmundsdóttir (Item 1)**  
**Maria Moustakali (Item 2)**  
**Ewa Gromnicka**  
**Erlend Leonhardsen (Item 2)**

*1. Conformity assessment of Directive 2008/6/EC - postal services (Case No: 89968)*

On 1 February 2023, Directive 2008/6/EC concerning the full accomplishment of the internal market of Community postal services (“the Directive”) entered into force in the EEA.

On 29 August 2023, the Authority informed Norway (Doc No 1394622) that it had decided to perform a conformity assessment of the national measures implementing the Directive. A table of correspondence was attached to the Authority’s request for information. In addition, the Authority asked Norway to provide information on the provision and scope of the universal service obligation (“USO”), designation of universal service provider (“USP”), delivery frequencies and calculation of costs related to the provision of USO. The deadline to reply was set at 30 September 2023.

Norway replied on 29 September 2023, providing answers to the questions, as well as a completed table of correspondence and additional explanatory documents (Doc No 1401590; your ref. 20/1125-).

On 24 April 2024, the Authority sent a request for information (Doc No 1448039), asking additional questions on the Norwegian Postal Act L04.09.2015 nr. 91 and the functioning of the universal service provider in Norway as the assessment raised some issues which the Authority invited the Norwegian Government to clarify or comment on. The deadline to provide a reply to the request for information was set at 7 June 2024. Norway replied to the request for information on 7 June 2024 (Doc No 1462008; your ref. 20/1125-).

**Specific questions to be discussed:**

The Authority would like to discuss the replies to the request for information during the Package Meeting, in particular the reduced universal service and powers of the national regulatory authority, as well as monitoring and reporting on the performance of the universal service provider.

**Estimated time: 45 minutes****2. Own initiative case concerning NAV's processing of IP addresses (Case No: 88929)**

On 7 July 2022, the Authority opened an own initiative case to investigate the application of Regulation 2016/679 (EU), the General Data Protection Regulation ("GDPR"), as well as its predecessor, Directive 95/46/EC, in Norway, from 2012 until the present day. The Norwegian Government was requested to clarify the position, current and past practices of the Norwegian Labour and Welfare Administration ("NAV") in relation to the processing and storing of Internet Protocol addresses ("IP addresses") of individuals sending employment status forms to the NAV.

At the 2022 Package Meeting, the Norwegian Government made it clear that the previous regime of tracking IP addresses had ceased and explained the new practice introduced for control purposes (Norway replied to the follow-up letter on 8 February 2023 (Doc No 1351284; your ref. 22/3509-15).

The case was also discussed at the 2023 Package Meeting, when the Norwegian Government presented the main points of the new regime, while the representatives of the Authority enquired about the compatibility of the new regime based on the use of the Currency Transaction Register with the relevant provisions of the GDPR.

In the Norwegian Government's reply to the Authority's follow-up letter, sent on 8 January 2024 (Doc No 1428332; your ref. 22/3509), the Norwegian Government made it clear that NAV had halted all use of the Currency Transaction Register for control purposes until such time as a thorough assessment of the regime has been carried out.

The reply noted that after the 2023 Package Meeting, NAV had initiated a complete review of the current practice of using the Currency Transaction Register for control purposes. In this regard, the Norwegian Government undertook that the relevant Circular be updated.

On the basis of the foregoing, the Authority addressed a supplementary request for information to Norway on 6 February 2024 (Doc No 1433725) in which the Authority asked three questions to the Norwegian Government, principally pertaining to whether an alternative means of control had been put in place in lieu of the Currency Transaction Register, measures had been taken to ensure GDPR compliance (including the results of any impact assessment), and requesting details of relevant circulars and instruments enacted for this purpose. The Norwegian Government replied to the Authority's letter on 25 June 2024 (Doc No 1466464; your ref. 22/3509) where the Norwegian Government presented a brief account of the measures that had been taken.

Given that the Norwegian Government, in its response to the Authority's letter, stated its wish to discuss the questions addressed at the 2024 Package Meeting, the Authority finds it useful to repeat the questions asked in its letter of 6 February 2024

(Doc No 1433725). The Authority would appreciate receiving a detailed presentation from Norway, in addition to relevant documentation, at the meeting.

**Specific questions to be discussed:**

- i. Given that usage of the Currency Transaction Register for control purposes has ceased, is, (or has), any other method of control being, (been) exercised in the meantime?
- ii. Please provide a full summary of the measures taken to ensure compliance with the GDPR and other relevant data protection principles, including the results of the data protection impact assessment and measures taken to ensure compliance with the principle of data minimisation;
- iii. Please provide details of any circulars or similar instruments (including drafts thereof if the final versions are not yet available) intended to give effect to any new control regime implemented to supplant that which was withdrawn following the 2023 Package Meeting discussions. Please provide English translations where possible.

**Estimated time: 1.5 hours**

**Package Meeting in Norway  
24-25 October 2024**

Proposal for discussion points

**Transport  
(Annex XIII)**

**Responsible case handler(s):** **Lemonia Tsaroucha (Items 1 and 2)**  
**Kadus Basit (Items 3-6)**  
**Gunnar Örn Indriðason (Item 7)**

**Other participant(s):** **Valgerður Guðmundsdóttir (Items 1-7)**  
**Rachel Harriott (Item 7)**  
**Kyrre Isaksen (Item 1, 4 and 7)**  
**Sigrún Ingibjörg Gísladóttir (Item 2)**

**1. Seafarers' wages in Norway (Case No: 88939)**

On 30 May 2022, the Norwegian Ministry of Trade, Industry and Fisheries (“the Ministry”) published a draft legislative proposal “*on Norwegian pay and working conditions on ships in Norwegian waters and on the Norwegian continental shelf*”. A public consultation on the proposal was held during the summer of 2022, which received 76 replies from different stakeholders.

The Internal Market Affairs Directorate (“the Directorate”) of the Authority opened an own-initiative case to monitor developments on the proposal, concerning the EEA law implications thereof. At that stage, the Directorate was interested, in particular, in the fulfilment of the consultation requirement in Article 9 of Regulation (EC) No 3577/92 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage).

The Ministry had an informal meeting with the Directorate to discuss their work on the proposal on 29 November 2022, where the Ministry confirmed its intention to consult the Authority on the revised draft bill, on which work was ongoing to incorporate the feedback from the public consultation.

On 1 May 2024, the Ministry published a revised legislative proposal, which maintains the scope and effect of the measures proposed originally but takes a different procedural approach. The proposal puts forward a number of amendments, primarily to the Norwegian general application act (‘*allmenngjøringsloven*’) and to the sectoral legislation regulating offshore activities that shipping provides services to (i.e. Petroleum Act, Offshore Energy Act, Seabed Minerals Act, and Aquaculture Act).

On 29 May 2024, the Ministry sent a request for consultation to the Authority (Doc No 1459307, your ref. 24/3002-2) identifying three main areas of EEA law to further

discuss. Namely, these are: (a) maritime cabotage, (b) freedom to provide services in maritime transport, and (c) state aid to maritime transport.

The Authority has been assessing the revised proposal in cooperation with the European Commission. In the meantime, the public hearing on the revised proposal launched on 1 May 2024 and concluded on 12 June 2024 resulted in 96 published reactions from stakeholders.

In the context of the consultation launched by Norway, the Authority is planning to adopt its opinion and send it to the Ministry prior to the Package Meeting.

At the meeting, the Authority would like to discuss the opinion and the proposed measures with the Ministry.

**Specific questions to be discussed:**

- i. The proportionality, suitability and necessity of the proposed measures;
- ii. The effect of the measure on existing aid schemes (i.e. tax refund scheme) approved by the Authority.

**Estimated time: 1 hour**

*2. Incorrect implementation of Directive 2005/65/EC on port security in Norway (Case No: 92209)*

The Authority has opened an own-initiative case to pursue infringement proceedings against Norway for its failure to correctly implement Directive 2005/65 on port security. The case emanates from the findings of the Authority's inspection of the Norwegian competent authority in March 2022, which have been confirmed in at least two other port inspections in Norway since then.

The Authority sent a letter of formal notice (Doc No 1469846) to Norway on 18 September 2024, asking Norway to comment on its conclusion that "*Norway has failed to comply with the requirements established in Articles 2, 5, 6, 7, 9, 10(1) and 13 of Directive 2005/65/EC, as well as in Article 12(1) of Commission Regulation No 324/2008*".

The deadline for Norway to respond to the Authority's letter is 18 November 2024.

At the Package Meeting, the Directorate would like to discuss any questions the Ministry might have to raise concerning the Authority's letter.

**Specific questions to be discussed:**

- i. Are there any questions the Ministry wishes to discuss before sending a reply to the letter of formal notice?
- ii. Are there any steps taken by the competent authority following receipt of the letter of formal notice to address the conclusions of the Authority?

**Estimated time: 1 hour****3. *Minimum safety requirements for tunnels in the Trans-European Road Network (TERN) – Norway (Case No: 84698)***

On 3 December 2020, the Authority issued a reasoned opinion (Doc No 1160732), in which it concluded that Norway had failed to ensure that all tunnels with lengths of over 500 m in the Trans-European Road Network (TERN) complied with the minimum safety requirements of Directive 2004/54/EC by the deadline set out therein. For tunnels that were already in operation at the time of the entry into force of the Directive, the deadline for refurbishment of those tunnels expired on 30 April 2019. At the time of the reasoned opinion, 68 tunnels were not in compliance with the minimum safety requirements.

The reasoned opinion has been discussed at each Package Meeting in Norway since 2021. At the Package Meeting in Oslo in October 2023, the Norwegian Government presented the status on the implementation of the Directive in Norway and indicated that by the end of 2023, the number of tunnels to be upgraded would be reduced to 39. The figures presented during the meeting were later submitted by the Norwegian Government to the Authority on 2 February 2024 (Doc No 1433459; your ref. 15/1923-, with attachments).

At the meeting, the Authority wishes to discuss the status of the case, including any developments or updates.

**Specific questions to be discussed:**

- i. What is the status of compliance for tunnels falling under the scope of the Directive, and to what degree have alternative security measures been implemented in tunnels that are not yet in compliance with the Directive?
- ii. Have there been or is there any information indicating possible changes to the previously presented timeframe for complying with the minimum safety requirements of the Directive?

**Estimated time: 1 hour****4. *Deployment of data link services – EFTA Court Judgment (Case No: 90753)***

On 12 July 2023, the EFTA Court delivered its judgment in case E-15/22 (EFTA Surveillance Authority v The Kingdom of Norway). The EFTA Court concluded that, by not providing and operating data link services by 5 February 2018, Norway had failed to fulfil its obligations under Articles 3(1) and 7(1) of Commission Regulation (EC) No 29/2009.

On 8 February 2024 (Doc No 1434955), the Authority invited Norway to inform the Authority how and by which date it intends to implement the conclusions of the EFTA Court judgment.

In a reply received on 29 February 2024 (Doc No 1439611; your ref. 18/1264-), the Norwegian Government stated that doubts have been cast by the air navigation service provider in Norway as to the feasibility of adhering to the 2025 timeline. A replanning for the implementation of a future air traffic management system is ongoing. The Norwegian Government also stated that the Norwegian Civil Aviation Authority (CAA) addressed the non-compliance and required corrective actions by 30 April 2024.

In a further update received on 14 May 2024 (Doc No 1456487; your ref. 18/1264-), the Norwegian Government informed the Authority that the deadline for the air service provider to provide the CAA with a corrective action plan was extended to 15 July 2024 and that only after that date would the Government be able to communicate the timeline for the deployment of DLS.

At the meeting, the Authority wishes to discuss the status of the case, including any developments or updates.

**Specific questions to be discussed:**

- i. What is the timeline for the deployment of data link services in Norway?
- ii. What measures are being taken by the Norwegian Government to comply with the EFTA Court judgment?

**Estimated time: 45 minutes**

*5. Conformity assessment of Directive 2016/797 (Case No: 89522)*

On 27 September 2023 (Doc No 1327631), the Authority invited Norway to provide information on how the Rail Interoperability Directive had been transposed and implemented in Norway.

The Norwegian Government replied to the Authority's request by letter of 9 November 2023 (Doc No 1412230; your ref. 20/2180-).

In a further request for information sent on 27 June 2024 (Doc No 1443908), the Authority invited Norway to comment on potential shortcomings with the Norwegian transposition measures.

By letter of 22 August 2024 (Doc No 1477520; your ref. 20/2180-), the Norwegian Government conceded with a majority of the issues raised by the Authority and stated that the national legislation transposing the Directive would be amended accordingly in the first half of 2025.

At the meeting, the Authority wishes to discuss the latest reply from the Norwegian Government.

**Specific questions to be discussed:**

What are the amendments foreseen, and what steps are planned to ensure that those amendments are adopted in the first half of 2025?

**Estimated time: 45 minutes**

*6. Conformity assessment of Directive 2012/34 (Case No: 89524)*

On 5 December 2022 (Doc No 1327500), the Authority invited Norway to provide information on how the Single European Railway Area Directive had been transposed and implemented in Norway.

The Norwegian Government replied to the Authority's request by letter of 15 December 2022 (Doc No 1338026; your ref. 15/365-).

As part of the conformity assessment, the Authority is preparing a list of questions which will be sent to the Ministry by 27 September 2024 (Doc No 1485620).

At the meeting, the Authority wishes to discuss those questions.

**Specific questions to be discussed:**

The Authority intends to discuss Norway's forthcoming reply to the supplementary request for information.

**Estimated time: 45 minutes**

*7. Norway - Direct award of PSO (Østlandet 1 and 2) for the period 2023-2033 (Case No: 90137)*

On 14 March 2023, the EFTA Surveillance Authority ("the Authority") opened an own initiative case to investigate the application in Norway of Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road ('PSO Regulation'), and Directive 2012/34/EU concerning the direct award of the railway network packages Østlandet 1 and 2 and abortion of announced award under competitive award for Trafikkpakke 4 and 5 (Doc No 1360069).

Furthermore, the Authority has received two complaints concerning the same matter (Case Nos 90137 and 91300).

On 7 June 2024, the Authority sent a supplementary request for information (Doc No 1459153). By email dated 14 June 2024, the Norwegian Government requested an extension to the deadline (Doc No 1482982), which was granted by the Authority by email on 17 June 2024 (Doc No 1482983) with an extended deadline to reply by 26 August 2024. On 9 July 2024, the Authority sent the Norwegian Government non-confidential versions of the complaints received (Doc No 1468866). The Authority received a reply from the Norwegian Government on 26 August 2024 (Doc No 1477941; your ref. 23/17-). As that reply did not include all the requested documents and information, the Authority sent a follow-up letter on 12 September 2024 (Doc No



1480752). On 19 September 2024, the Norwegian Government replied by letter (Doc No 1484123; your ref. 23/17-) where it provided most of the information previously requested.

During the meeting, the Authority would like to discuss the case and in particular the information provided by the Norwegian Authorities in the letters of 26 August 2024 and 19 September 2024.

**Estimated time: 60 Minutes**

**Package Meeting in Norway  
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Proposal for discussion points

**Public Procurement  
(Annex XVI)**

**Responsible case handler(s): Rachel Harriott  
Frederik De Ridder**

**Other participant(s): Ewa Gromnicka**

*1. Complaint against Norway regarding breaches of public procurement law in relation to contracts for pension services (Case No: 89254)*

The case concerns a complaint essentially alleging that the very limited level of competition in the market for insured public sector occupational pension services in Norway is in breach of EEA law. Allegations have been made of various breaches of the procurement rules, specifically, (i) unlawful direct awards of contracts; (ii) the continuation of contracts without fixed terms for disproportionately long periods of time; (iii) unlawful modifications of contracts.

On 29 February 2024, the Authority's Internal Market Affairs Directorate ("the Directorate") wrote to the Norwegian Government, setting out its preliminary view that it seemed that numerous contracts for the provision of pension services may have been unlawfully awarded and/or amended in breach of EEA public procurement law, leading to a widespread lack of competition in the insured public sector occupational pension services market (Doc No 1366568).

The Directorate's letter addressed the different breaches alleged by the complainant, and reached various preliminary conclusions, culminating in a finding that there was a consistent and general practice of failing to comply with the public procurement rules in the award and/or modification of contracts for insured public sector occupational pension services.

On 14 June 2024, the Norwegian Government responded to the Directorate's letter (Doc No 1463487; your ref. 22/6706-127). The Authority would like to discuss the case in light of that letter and any future correspondence.

**Specific questions to be discussed:**

- i. Whether the services fall within the scope of EEA public procurement law and which rules apply:
  - a. comments from the Directorate in light of the letter of 14 June 2024.
- ii. Modifications to contracts for insured public sector occupational pension services in Norway, in particular:

- a. the cumulative nature of the amendments to a number of contracts;
- b. the effect of the absence of a fixed term on the assessment of modifications.
- iii. Any matters not encompassed by the above which the Norwegian Government wishes to comment on or discuss.

**Estimated time: 1.5 hours, subject to what is to be covered under point iii.**

**Package Meeting in Norway  
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Proposal for discussion points

**Labour Law  
(Annex XVIII)**

**Responsible case handler(s): Per-Arvid Sjøgård**

**Other participant(s): Ewa Gromnicka**

**1. *Conformity assessment of Norway's implementation of Directive 8018/957 amending the Posting of Workers Directive (Case No: 90906)***

Following the Authority's request (Doc No1395496) on 6 October 2023, Norway submitted a Table of Correspondence (Doc No 1403141) for the implementation of Directive 2018/957 ("the Amending Directive") amending Directive 96/71 on the Posting of Workers.

Based on that information, the Authority carried out a conformity assessment which raised certain issues. Consequently, by way of a letter dated 22 April 2024 (Doc No1451535), the Authority requested certain clarifications from the Norwegian Government. Based on the reply received on 24 June 2024 (Doc No 1466192; your ref. 23/3115), the Authority wishes to raise the following questions:

**Specific questions to be discussed:**

**i. *Mandatory extension of long-term posting in case of motivated notification, see Article 1(2) (b) of the Amending Directive***

In its request for information, the Authority noted that the Amending Directive requires that the posting period "shall" be extended if the services provider submits a motivated question. In that respect, the Authority observed that the national, transposing provision merely requires that the posting period "may" be extended.

In its response to the request for information, the Ministry agreed that the Amending Directive "establishes a right to extension on the condition that a motivated notification has been submitted (...)". The Ministry sought to explain why the provision made use of the term "may".

The Authority is not sufficiently reassured by Norway's response and wishes to discuss the issue at the Package Meeting, including whether Norway considers that relevant statements in the hearing paper of July 2020 support an unequivocal right to extension (see point 9.3.3 of the hearing paper).

**ii. *Allowances specific to posting and the home state employer's obligation to reimburse the posted worker, see the last sentence of Article 1(2) (c) of the Amending Directive***

In its request for information, the Authority noted that this provision requires that the employer shall reimburse the posted worker for expenses actually incurred, in accordance with the national law of the state of establishment. The Authority observed that Norway had not transposed the provision in question.

In its response to the request for information, the Ministry provided several explanations for why it found transposition to be redundant, hereunder that posting *from* Norway was regulated in Section 12 of the national regulation on posted workers. According to the Ministry, “[t]his provision states that the employer is obliged to ensure that the posted worker’s terms and conditions are in accordance with Directive 96/71”.

On that point, the Authority observes that Section 12 of the national regulation refers to compliance with the provisions *of the host state*, as opposed to the rules of the state of establishment.

With reference to all the above, Norway is invited to confirm whether it still holds that Section 12 of the national regulation transposes the obligation set out in the last sentence of Article 1(2) (c).

iii. *Monitoring, control and enforcement, see Article 1(4) of the Amending Directive*

In its request for information, the Authority noted that the fourth subparagraph requires that in cases where an undertaking improperly or fraudulently creates the impression that the situation of a worker is one of posting, the host EEA State shall ensure that the worker benefits from relevant law and practice. Moreover, that provision should not lead to the worker concerned being subject to less favourable conditions than those applicable to posted workers.

The Authority, in said letter, questioned why no new transposition measures were considered necessary for those two provisions.

The Authority agrees with Norway’s statement provided in the reply to the request for information, namely that these provisions concern the distinction between posting in the context of providing services and, on the other hand, a regular worker establishing in the host state.

That is precisely why, however, the Authority needs further information in order to assess the reference made by the Ministry to Sections 3, 3a and 3b of the national regulation on posted workers as transposing measures. Those provisions concern the relevant law and practice benefitting *posted workers*, and not situations of impropriety and fraudulence where the worker is in fact a regular worker established in the host state (Norway).

Moreover, the Authority takes due note of the various Norwegian transposition measures concerning the assessment of whether a situation is genuine posting or not. However, those Sections do not concern what consequences are to follow after that assessment, which is the object of the relevant provision of the Amending Directive.

With reference to all of the above, the Authority would like to discuss the decision to not adopt any new transposition measures.

**Estimated time: 45 minutes**

**Package Meeting in Norway  
24-25 October 2024**

Proposal for discussion points

**EEA-UK Separation Agreement**

**Responsible case handler(s): Ciarán Burke**

**Other participant(s): Maria Moustakali**

**Kyrre Isaksen (Item 1)**

*1. Complaint against Norway concerning failure to give effect to rights to frontier workers coming under the scope of the Separation Agreement (Case No: 91492)*

On 14 December 2023, the Authority received a complaint against Norway concerning various alleged failures by organs and institutions under the supervision of the Norwegian Government to give effect to rights to frontier workers coming under the scope of the EEA-UK Separation Agreement. These principally pertain to the Directorate of Immigration (UDI) and the Ministry of Labour and Social Inclusion.

According to the complainant, Norway has failed to fulfil its obligations towards UK nationals falling under the personal scope of the Separation Agreement in particular, the complaint alleges that the complainant and other UK nationals have been subject to discriminatory treatment.

The Authority's Internal Market Affairs Directorate has undertaken a preliminary assessment of the merits of the complaint. On this basis, a request for information was sent to the Norwegian Government in September 2024 (Doc No 1481758). A reply is expected ahead of the 2024 Package Meeting. At the meeting, the Authority wishes to discuss with Norway the questions set out in the request for information and, potentially, the Norway's reply.

**Specific questions may be shared closer to the date of the Package Meeting.**

**Estimated time: 1 hour**