

Package Meeting in Norway
24 - 25 October 2019

Proposal for discussion points

**Veterinary and Phytosanitary Matters
(Annex I)**

Responsible case handler: Craig Simpson

1. *Complaints concerning 2018 administrative practices relating to movement of pet animals into Norway (Case Nos 82283, 82324, 82405, 82770 and 82771) (same issues in each case)*

The complaints concern statements on both the Norwegian Food Safety Authority's own website and on its Facebook website that, as from 1 July 2018:

- persons bringing dogs into Norway non-commercially must provide evidence that the dog has been in their ownership and control for at least six months before entering Norway; and
- stray dogs will no longer be considered as animals that may be traded under the EEA rules on commercial import of dogs.

The complainants claim that such administrative practices are contrary to EEA law.

By letter dated 4 April 2019 (Doc No 1050167), the Directorate informed the Norwegian Government of its preliminary conclusion that the administrative practices in question were without legal basis and infringed the relevant EEA legislation.

Norway responded by letter dated 30 August 2019 (Doc Nos 1085414 and 1085416).

At the package meeting, the Authority would like to discuss Norway's letter dated 30 August 2019 and any related future correspondence between the Authority and the Ministry prior to the meeting.

Estimated time: 45 minutes

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3. *Complaint concerning measures having equivalent effect to quantitative import restrictions contrary to Article 1(2) of Protocol 9 EEA (Case No 79122)*

The Authority maintains that use of the promotional trademarks 'NORGE Seafood' or 'Seafood from Norway' by the Norwegian Seafood Council ('NSC'), and potentially the NSC's encouragement of use of such trademarks by food business operators, constitutes a violation of Article 1(2) of Protocol 9 EEA.

Since Norway's letter to the Authority dated 30 November 2018 (Doc No 1041128), the Authority has had a number of fruitful informal discussions with the Ministry of Trade, Industry and Fisheries ('the Ministry') on how the issues in this case may be addressed.

The Authority would like to continue these discussions at the package meeting.

Estimated time: 30 minutes

4. *Incorrect implementation of Council Directive 2006/88/EC on animal health requirements for aquaculture animals and prevention and control of certain diseases in aquatic animals (Case 83734)/Follow up of mission to Norway from 20 to 29 May 2019 to evaluate official controls of animal health requirements for aquaculture animals (Case No 83033)*

By letter dated 30 August 2019 (Doc Nos 1085461, 1085463, 1085465), the NFSA informed the Authority of its proposed corrective actions ('action plan') in response to recommendations in the Authority's draft report of its recent mission to Norway concerning animal health requirements for aquaculture animals.

By email dated 9 September 2019 (Doc No 1086589), the Authority requested the Norwegian Government to submit a revised version of the action plan to the Authority by 18 September 2019 clarifying certain points which remained unclear.

The Authority would like to discuss at the package meeting the status of implementation of the action plan.

Estimated time: 45 minutes

Package Meeting in Norway
24 - 25 October 2019

Proposal for discussion points

**Medicinal products
(Annex II, Article 11 EEA)**

Responsible case handler: Gudlaug Jonasdottir

1. *Own initiative case and complaints concerning breach of Directive 2001/83/EC on medicinal products as regards private importation of food supplements (Case Nos 78732, 78322, 78274, 78257, 78184 and 78072)*

The own initiative case was opened in February 2016 to examine whether the classification of minerals and homeopathic remedies as medicinal products pursuant to the Norwegian Regulation No 1441 of 2 November 2004 on the production and import of medicinal products ("Regulation No 1441"), was compliant with Article 1(2) of Directive 2001/83/EC on the Community code relating to medicinal products for human use.

A request for information was sent 12 February 2016 (Doc No 792766). The Norwegian Government replied on 14 March 2016 (Doc No 797992; your ref. 16/2024). A follow-up request for information was sent on 24 April 2018 (Doc No 909819) where the Norwegian Government was inter alia invited to provide the Authority with information on whether the rules on private import of medicinal products in Section 3-2 of Regulation 1441 still applied to food supplements and/or homeopathic remedies and, if so, whether the Norwegian Government found such a classification to be in line with Article 1(2) of Directive 2001/83 and/or with Article 11 EEA. Norway replied to that letter on 25 June 2018 (Doc No 920943; your ref 16/2024-5) where the Authority was informed of changes to the Norwegian Regulation No 1839 of 18 December 2009 on Medicinal Products, which established a registration scheme for homeopathic medicinal products. The Norwegian Government also maintained that Regulation No 1441 only applied to medicinal products and not to food supplements.

A supplementary request for information was sent on 22 May 2019 (Doc No 1068884) where the Norwegian government was invited to provide further clarification in relation to its reply of 25 June 2018 that Regulation 1441 only applied to medicinal products and not to food supplements. The Norwegian Government replied to the letter on 21 June 2019 (Doc No 1076694; your ref 16/2024), where it stated that, since 2016, the established practice had been that products that were considered as food or food supplements within the EEA, were not to be covered by Section 3-2 of Regulation 1441 when handled by the customs authorities in relation to private imports. Furthermore, the established practice also entailed that when classifying a product as a medicinal product the Norwegian Medicines Agency always carried out an assessment on a case by case basis. Thus, the minerals and herbs listed in the Norwegian Regulation No 1565 of 27 December 1999 on the classification of medicinal products, and referred to in Section 3-2 of Regulation 1441, were only used as a guidance document in that regard.

During the meeting, the Authority would like to discuss the case in light of the most recent correspondence in the case, in particular the Norwegian Government's reply of 22 May 2019.

Estimated time: 45 minutes

2. Complaint against Norway concerning the classification of CBD-oil supplements made from industrial hemp (Case No 81910)

On 19 March 2018, the Authority received a complaint against Norway concerning the classification of CBD-oil supplements made from industrial hemp.

By a letter of 8 May 2018 (Doc No 908231), the Norwegian Government was invited to provide the Authority with information as regards the classification of CBD-oil products and to provide reasoning, in light of Article 1(2) of Directive 2001/83/EC, had such supplements been classified as medicinal products. By a letter of 18 June 2018 (Doc No 919624; your ref 18/1517-4) Norway replied to the request for information stating that the Norwegian Medicines Agency had not yet made a formal classification of a product containing CBD but only preformed a preliminary assessment of such products in general. However, formal requests for classification had been received and would be evaluated in due time.

On 17 February 2019, the Norwegian Government informed the Authority by informal means (Doc No 1056753) that the Norwegian Medicines Agency had not yet concluded on the classification for the three applications received, but that it aimed to finalise them by the end of the first half of 2019.

At the package meeting, the Authority would like to discuss the status of the case, in particular whether or not the aforementioned evaluations by the Norwegian Medicines Agency have been concluded and if so what were the results of the evaluations.

Estimated time: 30 minutes

**Free movement of goods
(Article 11 EEA)**

Responsible case handler: Gudlaug Jonasdottir

Own initiative case regarding the Norwegian rules on new nicotine products (Case No 83850)

The own initiative case was opened in July 2019 to examine whether the prohibition on the placing on the market of tobacco-free snus and electronic cigarettes under Section 2 of the Norwegian Regulation No 1044 of 13 October 1989 *on the prohibition of new tobacco and nicotine products* ("Regulation No 1044"), are in line with Article 11 EEA.

On 24 July 2019 (1077161), the Authority sent a request for information to the Norwegian Government. In the letter it is noted that the foreseen amendments to the Tobacco Act and the statements made in the preparatory works to the Act suggest that the Norwegian Government is of the opinion that a complete prohibition on the placing on the market of such products is no longer necessary to maintain the high degree of protection afforded to public health in this regard and that less strict measures can be introduced. In that regard, the Norwegian Government was invited to provide the Directorate with information inter alia on the interaction between the Tobacco Act and Regulation 1044, the effect of the foreseen amendments of the Tobacco Act and whether the current ban on the placing on the market of tobacco-free snus and electronic cigarettes could be justified by the reasons set out in Article 13 EEA, in particular as regards the proportionality and the necessity of the measure. The deadline to reply to the letter is 25 September 2019.

At the package meeting, the Authority would like to discuss the case in light of its correspondence, in particular the forthcoming answer to the request for information.

Estimated time: 30 minutes

Package Meeting in Norway
24 - 25 October 2019

Proposal for discussion points

**Energy
(Annex IV)**

Responsible case handler: Anne De Geeter

Complaint re failure by Norway to comply with obligations under Directive 2003/54/EC on the internal market for electricity (Case No 82601)

The case concerns the implementation of *Directive 2003/54/EC concerning common rules for the internal market in electricity* (the Electricity Directive). By letter of 26 October 2018 (Doc No 934151), the Authority informed the Norwegian Government that it received a complaint regarding the application of the Electricity Directive to the tariff model of the Norwegian transmission system operator (the TSO) for energy intensive undertakings.

By letter of 22 February 2019, the Authority requested the Norwegian Government to provide information (Doc No 1052756). The Norwegian Government provided information on 9 April 2019 (Doc Nos 1063860, 1063862 and 1063864).

The complainant has also sent a complaint to the Authority regarding an alleged state aid (Case 82610). That complaint is the responsibility of the Competition and State Aid Directorate (CSA) of the Authority, but the two complaints are assessed in close cooperation between the directorates. Information provided by Norway to CSA has thus been shared with the Internal Market Affairs Directorate for the handling of the hereby case.

At the meeting, the Authority would like to discuss the current status of the case. The Authority welcomes the participation of representatives of the TSO and the national regulatory authority to support the discussion and provide an overview on the tariff settings.

Estimated time: 45 minutes

Package Meeting in Norway
24 - 25 October 2019

Proposal for discussion points

**Free Movement of Workers
(Annex V)**

Responsible case handler: Ruta Janeckaite

1. Own-initiative case and complaint concerning taxation of pensions received by persons residing outside Norway (Case Nos 75693 and 78352)

In its reasoned opinion of 19 December 2017 (Doc No 857192), the Authority concluded that by excluding non-resident pensioners from benefiting from the deductions and limitations available to Norwegian residents where, because of the modest amount of their pensions, they are not taxable in the EEA State of residence Norway is in breach of Article 28 EEA.

Norway replied to the reasoned opinion by e-mail of 4 April 2018 (Doc No 906928), where it informed the Authority that it had been decided to establish a refund procedure, which was not likely to require changes in Norwegian law. However, after further examination it appeared that changes to the Taxation Act were necessary. Therefore, at the package meeting in Oslo in 2018, the Ministry undertook to prepare a draft proposal and submit it to the Parliament as part of the Revised National Budget of 2019.

By e-mail of 22 August 2019 (Doc No 1084564), the Ministry of Finance further informed that the draft proposal was being finalised and would be put before the Parliament this autumn.

From the information received from Norway IMA understands that the draft proposal will be made part of the draft National Budget of 2020, which normally should be published in October 2019.

Estimated time: 30 minutes

2. Complaints against Norway concerning discriminatory taxation of alimony payments to Denmark (Case Nos 82763 and 83231)

On 6 November 2018, the Authority received a complaint against Norway concerning discriminatory taxation of alimony payments to Denmark. According to the complainant, Norwegian rules on taxation of alimonies paid by Danish citizens working and receiving their income in Norway to recipients in Denmark are discriminatory and in breach of Norway's obligations laid down in the EEA Agreement.

On 6 December 2018, the Authority sent a request for information to Norway, where it invited the Norwegian Government to provide information related to the complaint

(Doc No 1039354). By letter dated 11 January 2019, the Norwegian Government provided the requested information (ref. 18/4569, Doc No 1046313).

On 22 March 2019, the Authority received another complaint concerning the same issue as assessed in the complaint Case No 82763.

At the meeting, the Authority would like to discuss the matter in light of the above-mentioned correspondence.

Estimated time: 45 minutes

Package Meeting in Norway
24 - 25 October 2019

Proposal for discussion points

**Free Movement of Persons
(Annex V)**

Responsible case handler: **Hrafnhildur Kristinsdóttir**

1. Own initiative case and complaints concerning the assessment of marriages of convenience in Norway (Case Nos 78450, 79775, 81539, 81747 and 81770)

The own initiative case was opened to examine whether the assessment of marriages of convenience in Norway of third-country national family members of EEA/Norwegian nationals complies with the substantive and procedural requirements of EEA law. The main issues are, firstly, whether the assessment of marriages of convenience by the Norwegian immigration authorities is based on EEA law and follows the so-called “double lock” mechanism and, secondly, whether the immigration authorities can expel third-country nationals under national law when they have concluded that the marriage is of convenience.

A request for information was sent to Norway on 23 December 2015 (Doc No 786226). The reply from the Norwegian Government was received on 26 February 2016 (Doc No 794862). Further information from the Norwegian Government was requested on 16 March 2016 (Doc No 795998) and was received on 4 May 2016 (Doc No 803493).

The case was discussed at the package meetings of 2016 and 2017. By letter of 15 December 2017 (Doc No 889166 / your ref. 17/3084), the Norwegian Government confirmed that the “double lock” mechanism was now being used by the immigration authorities.

The case was discussed again at the package meeting in October 2018. At the meeting, the representatives of the Norwegian Government explained that the procedure of expulsion of a third-country national following a rejection of an application for a residence card on the basis that the marriage is of convenience changed as of 30 April 2018, when the right to appeal decisions to reject the issue of residence cards was introduced. Following that amendment, there was no longer a need to open a separate expulsion case under Chapter 13 of the Immigration Act (in order to ensure the right to appeal) and, therefore, the person concerned would only be expelled based on national law (Chapter 8 of the Immigration Act). The Norwegian Government replied to the Authority’s follow-up letter on 19 December 2018 (Doc No 1044629 / your ref. 18/2582).

It has been brought to the Authority’s attention that Norwegian courts have recently delivered judgments which appear to suggest that the previous practice of the immigration authorities in assessing whether a marriage is of convenience is incorrect. In that context, reference is made to a judgment of the Oslo District Court of 10 April 2019 (in a case concerning the complainant in Case No 81539) and a

judgment of the Court of Appeal of 11 February 2019 – LB-2018-32774 (as well as the underlying judgment of the Oslo District Court of 20 December 2017).

The Authority would like to discuss the case in light of the latest correspondence and the recent case law of the Norwegian courts.

Estimated time: 60 minutes

2. Own initiative case concerning exceeded time limits in the handling of applications under Directive 2004/38/EC (Case No 82473)

The case was opened on 31 August 2018 to examine the case handling time of applications under Directive 2004/38 by Norwegian immigration authorities. The Authority has received a substantial number of complaints and enquiries where time limits have been exceeded in the handling of applications under Directive 2004/38, both with regard to applications for residence cards under Article 10 of Directive 2004/38 and applications for the lifting of exclusion orders under Article 32 of the Directive.

On 3 September 2018, the Authority sent a request for information to the Norwegian Government (Doc No 928519). The Norwegian Government replied by letter of 3 October 2018 (Doc No 928519 / your ref. 18/2680).

The case was discussed at the package meeting in Oslo in October 2018. At the meeting, the Norwegian Government was asked to provide information on statistics of cases where the six months' case handling time in Directive 2004/38 was exceeded. By letter dated 19 December 2018 (Doc No 1044552 / your ref. 18/2582), the Norwegian Government provided the requested statistics.

On 19 March 2019, the Directorate sent a pre-Article 31 letter to Norway (Doc No 1059351), with the preliminary conclusion that, by failing to take the necessary measures to ensure that the Norwegian immigration authorities process applications for residence cards and applications for the lifting of exclusion orders within the prescribed six months' time limit, Norway had failed to fulfil its obligations arising from Articles 10(1) and 32(1) of Directive 2004/38.

The Norwegian Government replied by letter dated 3 May 2019 (Doc No 1067492 / your ref. 18/2680), where it stated *inter alia* that it was taking necessary measures to ensure that the immigration authorities process applications within the relevant time limit.

The Authority would like to discuss the case in light of the above-mentioned correspondence and would like to be updated on the status of the measures taken to reduce the case handling time.

Estimated time: 45 minutes

3. Own initiative case and complaint concerning the issuance of tax cards to EEA nationals and their third-country national family members and the possibility to work from day one from their arrival to Norway (Case Nos 80333 and 81012)

The own initiative case was opened on 1 March 2017 in order to examine the issuance of tax cards in Norway to EEA nationals and their third-country national family members in the context of ensuring the right to work from day one. The Authority's examination has also encompassed the requirements in relation to the reporting of a move to Norway and the issuance of national ID numbers.

On 7 August 2017, the Authority received a complaint raising similar issues as the own initiative case, *i.e.* whether Norway ensured the right for third-country national family members of EEA/Norwegian nationals to work while awaiting the issuance of a residence card. This complaint case has been dealt with in the context of the own initiative case.

A request for information was sent to Norway on 26 April 2017 (Doc No 844377). Norway replied on 30 May 2017 (Doc No 858219 / your ref. 17/1987 SL EGj/KR).

The case was discussed at the package meeting in October 2017. By letter dated 15 January 2018 (Doc No 892704 / your ref. 17/1987 SL EGj/KR), the Norwegian Government informed the Authority of recent amendments to the *Routine for guidance on and case processing of withholding tax for personal tax payers*, ensuring equal treatment between EEA nationals and third-country national family members with regard to obtaining tax cards.

The case was discussed again at the package meeting in October 2018, where the representatives of the Norwegian Government stated that EEA nationals and third-country national family members were ensured the right to work from day one from their arrival to Norway, without any documents or administrative formalities. It was also explained that the case handling time for issuing tax cards had been reduced as appointments could be booked online, the waiting time was around 4-5 days and applications for tax cards and d-numbers could be processed on the spot.

By letter dated 17 December 2018 (Doc No 1043982 / your ref. 17/1987), the Norwegian Government provided information on amendments to the *Routine for reporting a move and applying for tax cards* as of 1 January 2018, entailing that, in relation to the reporting of a move to Norway, either housing (proof of a valid address) or work could be sufficient to proof intention to stay for more than six months.

Since January this year, the Authority and the Norwegian Government have engaged in formal correspondence concerning several aspects of the case. On 11 January 2019, the Authority sent a supplementary request for information to Norway (Doc No 1046002) to which Norway replied by letter dated 21 February 2019 (Doc No 1054308 / your ref. 17/1987). In that letter, the Norwegian Government acknowledged that it was not in line with Article 25 of Directive 2004/38/EC to require registration certificates (for EEA nationals) or residence cards (for third-country nationals) in order to be registered as residents in Norway and stated that the relevant guidelines concerning the reporting of a move would be amended accordingly.

Subsequently, two further supplementary requests for information have been sent to Norway concerning, in particular, the issuance of national ID numbers and d-numbers and their connection with equal access to social advantages. The first one was sent on 11 March 2019 (Doc No 1058044) and Norway replied by letter dated

26 April 2019 (Doc No 1066301 / your ref. 19/903). The second one was sent on 8 July 2019 (Doc No 1070918) and Norway replied by letter of 8 September 2019 (Doc No 1086459 / your ref. 19/903).

At the meeting, the Authority would like to discuss the current practice concerning the reporting of a move to Norway and the issuance of national ID numbers and whether amendments have been made concerning the requirements of registration certificates / residence cards. The Authority would also like to discuss the case in light of the most recent correspondence concerning equal access to social advantages (excluding the issues concerning social security and Regulation No 883/2004).

Estimated time: 60 minutes

4. Own initiative case concerning financial assistance to studies (Case No 77396)

The case was opened on 12 May 2015 and concerns financial support for studies abroad for migrant and frontier workers and their family members. At issue here are various requirements in the Study Financing Regulation in relation to sufficient links to Norway in order to be eligible for financial assistance to studies abroad.

A request for information was sent to Norway on 17 June 2015 (Doc No 757521). The Norwegian Government responded by letter of 17 August 2015 (Doc No 769530 / your ref. 11/2195).

The case was discussed at the package meetings in Norway in 2015, 2016 and 2017.

A letter of formal notice was sent to Norway on 18 October 2017 (Doc No 783169), concluding that the requirements laid down in Section 31-5 of the Study Financing Regulation were in breach of Article 28 of the EEA Agreement and Article 7(2) of Regulation No 492/2011. Norway replied by letter of 16 February 2018 (Doc No 898344), objecting to the Authority's conclusions.

The case was discussed at the package meeting in Norway in October 2018, where the representatives of the Norwegian Government indicated it might be willing to make some changes to the current rules. By letter dated 10 May 2019 (Doc No 1068974 / your ref. 17/4898), the Norwegian Government submitted proposals to amend Section 31-5 of the Study Financing Regulation. On 28 August 2019, the Directorate sent a formal letter to Norway putting forward its preliminary view that the proposed changes did not suffice to bring the system in compliance with EEA law (Doc No 1083493).

At the meeting, the Authority would like to discuss the case in light of the most recent correspondence.

Estimated time: 45 minutes

5. Own initiative case concerning Norway's rejections of applications for entry visas of TCN family members of EEA nationals due to insufficient marriage documentation (Case No 84052)

This case was opened on 6 September 2019, in order to examine Norway's application of Directive 2004/38/EC in the context of rejections of applications for entry visas of third-country national family members of EEA nationals due to insufficient marriage documentation.

On 11 September 2019, the Authority sent a request for information to Norway (Doc No 1086558), asking for clarifications concerning the practice of the Norwegian immigration authorities to reject application for entry visas of third-country nationals claiming to be family members (spouses) of EEA nationals if the marriages are only documented by marriage certificates from countries which are considered by the immigration authorities to have low notoriety. Norway's deadline to respond to the request for information is 11 October 2019.

At the meeting, the Authority would like to discuss the case in light of the above correspondence.

Estimated time: 30 minutes

Package Meeting in Norway
24 - 25 October 2019

Proposal for discussion points

**Social Security
(Annex VI)**

Responsible case handler: Miek Peeters

Complaint against Norway concerning the refusal of granting public transport discount for disabled persons (Case No 82016)

On 12 April 2018, the Authority received a complaint against Norway concerning NAV's refusal to grant a discount card for public transport ("honnørkort") to recipients of invalidity benefits from other EEA States.

On 10 July 2018, the Authority sent a request for information (Doc No 922659). On 11 September 2018, the Norwegian Government replied (Doc No 924279).

The case was discussed at the package meeting on 25-26 October 2018, where the representatives of the Government explained that the responsibility to issue the discount cards only covered beneficiaries that reached a 50 % rate of invalidity under the Norwegian Social Security Scheme and not recipients of benefits from other EEA States, despite them being legally resided in Norway and reaching the same rate of invalidity. It was further explained that the scheme was not set out by legislation, it was a matter of practice and a budgetary issue of the municipalities.

On 23 November 2018, the Authority sent a follow up letter to the package meeting (Doc No 1039214), inviting the Government to elaborate further on the how the entitlement criteria was in line with EEA law, namely under Regulation No 883/2004 on the coordination of social security systems and whether Regulation No 492/2011 on freedom of movement for workers was applicable.

On 17 January 2019 the Government replied (Doc No 1047578), offering the view that in accordance with Article 7(2) of Regulation No 492/2011, EEA citizens who are eligible to a public mandatory disability benefit from another EEA country, equivalent to Norwegian public mandatory disability benefits, are entitled to the discount cards, given that beneficiary's income capacity is permanently reduced by at least 50 % due to illness, injury or defect. The Government stated that it was working on finding an administrative solution to ensure this right for EEA citizens.

On 17 April 2019 the Authority sent another request for information (Doc No 1061356). On 16 May 2019, the Government replied by letter (Doc No 1069831). On 31 July 2019, the Government informally informed the Authority that the complainant was granted a discount card on 8 July 2019.

At the meeting, the Authority would like to discuss the general scope of the new entitlement criteria and the foreseen application procedure for EEA citizens. The

Authority would encourage the Government to give a firm timeline of the execution of the new scheme.

Estimated time: 30 minutes

Package Meeting in Norway
24 - 25 October 2019

Proposal for discussion points

**Social Security / Patients' rights
(Annex VI)**

Responsible case handler: **Kristin Sæther Bangsund**

Access to cross border health care (Case No 72376) and related complaints

On 20 September 2017, the Authority delivered a reasoned opinion to Norway concerning the Norwegian legislative criteria for access to in-patient treatment in other EEA States (Doc No 828764). The reasoned opinion concerned two main remaining aspects.

The first aspect related to the right to the legislative criteria as concerns seeking in-patient medical treatment abroad in cases where it is clear that the medically justifiable deadline for treatment set pursuant to the Norwegian legislation can not be adhered to. The second aspect concerned the conditions for seeking medical treatment abroad when the due treatment was not provided within the medically justifiable deadline set nationally.

On 18 June 2018 (Doc No 918787, your ref.: 16/156), the Norwegian Government informed the Authority of potential legislative changes. Further details were discussed during the package meeting in Norway in October 2018, and an informal update on the status of the legislative proposal was received in June 2019.

During the meeting, the Authority would like to discuss the case in light of the most recent correspondence, and any factual or legislative developments on Norway's side.

Estimated time: 45 minutes

Package Meeting in Norway
24 - 25 October 2019

Proposal for discussion points

**Professional qualifications
(Annex VII)**

Responsible case handler: Miek Peeters

1. Complaints against Norway on the recognition procedure of Hungarian qualifications of psychologist (Case Nos 80103, 79661, 81375 and 81656)

By letters dated 24 January 2017 (Doc No 834771), 23 June 2017 (Doc No 862725), 23 November 2017 (Doc No 883677), and 5 February 2018 (Doc No 896460), the Authority informed the Norwegian Government that it had received complaints against Norway regarding the recognition of Hungarian qualification of psychology in order to work as a psychologist in Norway.

On 25 January 2017, the Authority sent a request for information to Norway (Doc No 834771). On 3 March 2017, Norway replied (Doc No 845211). On 16 May 2017, the Authority sent a new request for information (Doc No 856095). On 8 June 2017, Norway replied (Doc No 859557). On 12 June 2017, the Authority sent another request for information (Doc No 860489). On 7 July, Norway replied (Doc No 865090).

On 8 June 2017, the Authority received additional information from Norway that it had received from the Hungarian authorities (Doc No 860200).

On 26 October 2017, the cases were discussed at the package meeting between representatives of the Authority and of the Norwegian Government (Doc No 878916).

On 16 November 2017 and 23 November 2017, the Authority sent two more requests for information (Doc No 882739 and Doc No 883677). On 13 December 2017, the Authority received the reply of Norway to both requests of information (Doc No 888288).

On 12 June 2018, the Authority issued a letter of formal notice (Doc No 914637). On 26 September 2018, the Norwegian Government replied (Doc No 928808).

On 25-26 October 2018, the cases were discussed at the package meeting between representatives of the Authority and of the Norwegian Government.

On 23 November 2018, the Authority sent an additional request for information (Doc No 1038408). On 21 December 2018, the Norwegian Government replied (Doc No 1044987).

The Authority would like to discuss the case with the Norwegian Government. The discussion at the package meeting should be based on past and future correspondence.

Estimated time: 1 hour

2. Complaint against Norway on the recognition of a Dutch qualification of psychologist (Case No 81735)

On 2 February 2018, the Authority received a complaint against Norway on the recognition of a Dutch qualification of psychologist.

On 16 May 2018, the Authority sent a request for information to Norway (Doc No 913460).

On 19 July 2018, Norway replied (Doc No 924777). In its reply, Norway claims the qualification of the complainant does not entitle the holder to practice the psychologist's profession on an independent basis.

On 25-26 October 2018, the case was discussed at the package meeting between representatives of the Authority and of the Norwegian Government.

On 28 June 2019, the Authority sent an additional request for information due to extended delays in the case handling time before the Norwegian Appeal Board for Health Personnel (Doc No 1075981). On 26 August 2018, the Norwegian Government replied (Doc No 1084751).

The Authority would like to discuss the case with the Norwegian Government. The discussion at the package meeting should be based on past and future correspondence.

Estimated time: 30 minutes

3. Complaint against Norway on the recognition of a Danish qualification of psychologist (Case No 82236)

On 13 June 2018, the Authority received a complaint against Norway concerning the recognition of a Danish qualification of psychologist.

On 19 July 2018, the Authority sent a request for information to Norway (Doc No 924637). On 10 October 2018, the Norwegian Government replied by letter (Doc No 933915).

On 25-26 October 2018, the case was discussed at the package meeting between representatives of the Authority and of the Norwegian Government.

On 22 February 2019, the Authority sent an additional request for information (Doc No 1053630). On 30 April 2019, the Norwegian Government replied (Doc No 1067054). On 29 May 2019, the Authority requested further information (Doc No 1069149). On 27 June 2019, the Norwegian Government replied (Doc No 1078225).

The Authority would like to discuss the case with the Norwegian Government. The discussion at the package meeting should be based on past and future correspondence.

Estimated time: 30 minutes

4. Complaint against Norway on the recognition of a Lithuanian qualification of psychologist (Case No 81736)

On 17 February 2018, the Authority received a complaint against Norway concerning the recognition of a Lithuanian qualification of psychologist.

On 26 April 2018, the Authority sent a request for information to Norway (Doc No 910442). The Norwegian Government replied on 17 July 2018 (Doc No 924438).

On 25-26 October 2018, the case was discussed at the package meeting between representatives of the Authority and of the Norwegian Government.

On 11 February 2019, the Norwegian Government replied to the Authority's follow up letter (Doc No 1052672).

On 13 June 2019, by a final decision, the Norwegian Appeal Board rejected the complainant's application for an authorisation.

The Authority would like to discuss the case with the Norwegian Government. The discussion at the package meeting should be based on past and future correspondence.

Estimated time: 30 minutes

5. Complaint against Norway on the recognition of a Hungarian (not ELTE) qualification of psychologist (Case No 82237)

On 13 June 2018, the Authority received a complaint against Norway concerning the recognition of a Hungarian qualification of psychologist from the University of Pecs.

On 26 July 2018, the Authority sent a request for information to Norway (Doc No 924740). On 20 September 2018, the Norwegian Government replied (Doc No 930844).

On 25-26 October 2018, the case was discussed at the package meeting between representatives of the Authority and of the Norwegian Government.

The Authority would like to discuss the case with the Norwegian Government. The discussion at the package meeting should be based on past and future correspondence.

Estimated time: 30 minutes

6. Complaint against Norway on the recognition of a clinical nutritionist (Case No 81109)

On 21 September 2017, the Authority received a complaint against Norway concerning the recognition of a clinical nutritionist.

On 14 June 2018, the Authority sent a request for information to Norway (Doc No 913456). The Norwegian Government replied on 14 September 2018 (Doc No 930039).

On 25-26 October 2018, the case was discussed at the package meeting between representatives of the Authority and of the Norwegian Government.

The Authority would like to discuss the case with the Norwegian Government. The discussion at the package meeting should be based on past and future correspondence.

Estimated time: 30 minutes

Package Meeting in Norway
24 - 25 October 2019

Proposal for discussion points

**Freedom of Establishment
(Annex VIII)**

Responsible case handler: Ruta Janeckaite

1. General EEA nationality and residence requirements in Norway (Case No 75406)

On 12 October 2016, the Authority delivered a reasoned opinion to Norway (Doc No 816628) whereby it concluded that by maintaining in force EEA nationality and/or residence requirements such as requirements in Sections 6-11 and 6-36 of the Act on Public Limited Companies, Section 6-11 of the Act on Private Limited Companies and Sections 7-5 and 8 4(5) of the Financial Undertakings Act, Norway has failed to fulfil its obligations arising from Articles 31 and 28 EEA, Article 2 of the Eleventh Directive 89/666/EEC and Article 1(1) of Regulation (EU) No 492/2011 on freedom of movement for workers within the Union.

Norway replied to the reasoned opinion by letter of 13 February 2017 (ref. 14/5408-21, Doc No 841508) where it undertook to assess and propose alternative legislation.

At the package meeting of 26-27 October 2017, the Norwegian Government's representatives informed the Authority that the Government had taken a decision to amend the relevant legislation. However, the legislation had not yet been drafted and would be ready in spring 2018.

The case was again discussed at the package meeting of 25-26 October 2018 where the representatives of the Norwegian Government informed the Authority that the drafting of the legislative proposals was being finalised and the proposals would be published for public consultation in November or December 2018. It was planned that the proposals would be submitted to the Parliament in spring 2019.

In 2019, the Authority and the Norwegian Government have had several informal and formal contacts regarding the status of the draft proposals. Most recently, by letter of 22 August 2019 (ref. 14/5408-36, Doc No 1084567), the Norwegian Government informed the Authority that the Ministry of Trade, Industry and Fisheries was still working on the draft amendments which would be subject to public consultation. The amendments would comprise some kind of residence and/or nationality requirements for different types of companies, which are just and proportionate, as required by EEA law.

At the meeting, the Authority would like to receive an update concerning Norway's compliance with the reasoned opinion of 12 October 2016.

Estimated time: 30 minutes

2. Authorisation requirements to set up subsidiaries of Norwegian financial institutions in other EEA States (Case No 78022)

On 22 June 2018, the Internal Market Affairs Directorate of the Authority (“the Directorate”) sent a Pre-Article 31 letter to the Norwegian Government (Doc No 906322). In this letter, the Directorate preliminarily concluded that a requirement for a Norwegian credit institution or insurance undertaking, or the parent company of such undertakings, to additionally obtain an authorisation from the Norwegian competent authority, before establishing or acquiring a subsidiary in another EEA State (Section 4-1 paragraph 1 of the Financial Undertakings Act) constitutes an unjustified restriction on the freedom of establishment under Article 31 of the EEA Agreement.

The Government replied by letter of 21 September 2018 (ref. 16/39, Doc No 930846). In this letter, it maintained its view that the authorisation requirement is both suitable and necessary in order to achieve the aim of financial stability.

The issue was discussed at the package meeting in Oslo on 25-26 October 2018 where the Norwegian Government provided arguments as to the suitability and necessity of the national measure. The representatives of the Authority stated that they would continue to examine and assess the case and were likely to revert with requests for further information. On 23 November 2018 (Doc No 1039260), the Authority sent an additional request for information to Norway. The Government replied by letter of 3 January 2019 (ref. 16/39, Doc No 1045358).

At the meeting, the Authority’s representatives would like to discuss the issue in light of the forthcoming correspondence from the Authority.

Estimated time: 1 hour

3. Authorisation rules and practices for Norwegian banks and insurance companies (Case No 80996)

In its judgment in Case No E-08/16 *Netfonds Holding*, the EFTA Court gave an Advisory Opinion to Oslo District Court concerning the interpretation of Articles 31, 36 and 40 EEA in the context of rules and alleged administrative practices applicable to Norwegian companies at the time of their application for authorisation as banks or insurance companies.

In light of that judgment, the Authority has undertaken an examination of whether the Norwegian legislation and administrative practices comply with Articles 31, 36 and 40 EEA.

In the letter of formal notice of 10 April 2019 (Doc No 924240), the Authority concluded that, by maintaining in force an administrative practice whereby no single shareholder is, as a main rule, allowed to own more than 20-25 percent of the total shares in financial undertakings, as well as a rule according to which three quarters of the share capital in a bank or an insurance company shall be subscribed by capital increase without any preferential rights for shareholders or others, Norway is in breach of Articles 31 and 40 EEA.

Norway responded by letter of 11 June 2019 (ref. 17/3573, Doc No 1074428), in which it stated that the issues raised by the Authority in the letter of formal notice

were closely connected with the appeal proceedings pending at the Court of Appeal, as well as the experts' report delivered on 26 April 2019 concerning ownership control rules¹, which was at the time being considered by the Ministry of Finance. In light of this situation, the Government held the view that it was not in a position to elaborate in detail on the issues raised in the letter of formal notice and only commented on certain aspects of the letter. The Government's reply ended by a request directed to the Authority to allow the judiciary time to complete the on-going proceedings before a decision is taken on the continuation of the infringement proceeding against Norway.

At the meeting, the Authority's representatives would like to discuss the issue in light of the above-mentioned correspondence.

Estimated time: 45 minutes

4. Norwegian rules on group contributions and final loss exception (Case No 81849)

On 19 April 2018, the Authority sent a request for information letter to Norway (Doc No 903884), to follow up on the judgment of the EFTA Court in Case E-15/16 *Yara*, where the EFTA Court confirmed "*the final loss exception*", established by the Court of Justice of the European Union in the *Marks & Spencer* case (C-446/03). In the letter, the Authority requested the Norwegian Government to confirm that the Norwegian Tax Act does not contain a "*final loss exception*" and invited the Government to explain how it intended to react.

By letter dated 16 May 2018 (ref. 14/3063 SL KAAS/KR, Doc No 914029), Norway responded to the request for information where it confirmed that no "*final loss exception*" exists in the Norwegian Taxation Act and that work had started with the intention to incorporate a final loss exception in the relevant Tax Act provisions.

The issue was discussed at the package meeting in Oslo on 25-26 October 2018 where the representatives of the Norwegian Government stated that the Ministry was working on the draft legislation. The public consultation paper was likely to be released in early 2019 and submitted to the Parliament as a part of the Revised National Budget in May 2019 or the National Budget in October 2019.

The public consultation paper concerning the final loss exception was published on 13 August 2019, with the deadline to submit comments set on 13 November 2019².

At the meeting, the Authority would like to receive an update about the content of the draft proposal and the status of the legislative process.

Estimated time: 30 minutes

5. Complaint against Norway concerning the new Norwegian rules on interest deductibility (Case No 82998)

¹ <https://www.regjeringen.no/no/aktuelt/utredning-om-utforming-av-cierkontrollreglene/id2643416/>

² <https://www.regjeringen.no/no/dokumenter/forslag-til-endring-i-konsernbidragsreglene/id2664050/>

On 3 January 2019, the Authority received a complaint against Norway concerning the new Norwegian rules on the limitation of the deductibility of interest expenses, which entered into force on 1 January 2019 (LOV-2018-12-20-102).

According to the complaint, the elements of the newly adopted legislation, especially the content of the so called “*equity escape rule*”, are in breach of the rules on the freedom of establishment under Article 31 of the EEA Agreement.

By letter of 12 March 2019 (Doc No 1050677), the Authority sent a request for information to Norway inviting it to provide information related to the complaint. By letter dated 22 May 2019, the Norwegian Government provided the requested information (ref. 19/416-4, Doc No 1070905).

At the meeting, the Authority would like to discuss the matter in light of the above-mentioned correspondence.

Estimated time: 1 hour

Package Meeting in Norway
24 - 25 October 2019

Proposal for discussion points

**(Financial Services)
(Annex IX)**

Responsible case handler: Marco Uccelli

1. Own-initiative case concerning Directive 2001/24/EC on reorganisation and winding-up of credit institutions in Norway (Case No 77584)

In its letter of formal notice of 25 May 2016 (Doc No 778101), the Authority concluded that Articles 20 to 22, 24, 26, 27 and 30-32 of Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions (the Directive) had not been implemented into Norwegian law while Articles 23 and 25 have been implemented in an insufficient manner.

In its reply to the letter of formal notice dated 24 August 2016 (Doc No 815710), the Authority was informed that the Norwegian Government will initiate necessary proceedings to ensure that the Norwegian legislation is in conformity with the mentioned provisions of the Directive.

Following the package meeting in 2018, on 19 December 2018 the Norwegian Government informed the Authority (Doc No 1044795) that a proposal to amend the legislation had been put forward to the Parliament on 14 December 2018.

At the meeting, the Authority wishes to be informed about the state of play of the legislative process in Norway including an estimated timeline for entry into force of the proposed measures.

Estimated time: 30 minutes

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3. *Conformity assessment of Directive 2009/138/EC (Solvency II) (Case No 79182)*

Following the conformity assessment of Directive 2009/138/EC (the Solvency II Directive), on 10 January 2019 the Authority sent a request for information to Norway (Doc No 1045614). By letter dated 6 February 2019 (Doc No 1050522), the Norwegian Government informed the Authority of its intention to initiate proceedings to amend the legislation at issue.

At the meeting, the Authority wishes to be informed about the state of play of the legislative process in Norway, including an estimated timeline for entry into force of the proposed measures.

Estimated time: 30 minutes

4. *Assessment of acquisitions and increase of holdings in the financial sector in Norway (Directive 2007/44/EC) (Case No 77973)*

In its letter of formal notice dated 15 March 2017 (Doc No 817335), the Authority concluded that the assessment criteria which are set out in the Norwegian Financial Undertakings Act are not fully in line with the criteria that were introduced in Directive 2007/44/EC.

Following the package meeting in 2018, on 19 December 2018 the Norwegian Government provided the Authority (Doc No 1044795) with the latest information about the legislative process.

At the meeting, the Authority wishes to be updated about the legislative measures that are being prepared by the Norwegian Government, including an estimated timeline for entry into force of the measures.

Estimated time: 30 minutes

Package Meeting in Norway
24 - 25 October 2019

Proposal for discussion points

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Estimated time: 1 hour

**Responsible case handler: Marthe Kristine Fjeld Dystland
Ruta Janeckaite**

Complaints against Norway concerning the reporting obligation for foreign contractors (Cases Nos 77290, 77291 and 78800)

The complainants claim that Norway is infringing EEA law by requiring them to submit to the Norwegian authorities specified information on all contracts concluded between Norwegian based recipients of services and providers of services from other EEA States with a value of at least a certain amount expressed in NOK at the latest within 14 days of commencement of the work in Norway ("the reporting obligation"). The reporting obligation applies to Norwegian entities awarding the contract, as well as to the non-Norwegian contractors. No such reporting obligation exists where a contract is awarded to a Norwegian contractor.

A letter of formal notice was issued in this case on 15 December 2016 (Doc No 819456). Norway replied to the letter on 24 March 2017 (ref. 15/1761 SL RSL/KR, Doc No 849877, 849873 and 849875).

On 15 December 2017, the Norwegian Parliament adopted amendments to the reporting obligation, which entered into force on 1 January 2018 ("Lov 19 desember 2017 nr. 128 om endringer i lov 27. mai 2016 nr. 14 om skatteforvaltning (skatteforvaltningsloven)" and "Lov 19 desember 2017 nr. 123 om endringer i lov 17. juni 2005 nr. 67 om betaling og innkreving av skatte- og avgiftskrav (skattebetalingsloven)").

Having re-examined the reporting obligation as amended and considering that it continued to restrict the free provision of services in a manner, which, in the absence of convincing evidence from Norway to the contrary, cannot be considered as justified, on 5 December 2018, the Authority issued a reasoned opinion to Norway (Doc No 864545).

Norway replied to the reasoned opinion by letter of 5 April 2019 (ref. 15/1761, Doc No 1063269).

The case was most recently discussed at a meeting on 24 September 2019 in Brussels.

In light of the meeting on 24 September 2019, the Authority would like to discuss the technical details of the reporting obligation.

Estimated time: 3 hours (In order to ensure attendance from the necessary technical experts, the Authority suggests that this meeting be organised separately from the main package meeting).

Package Meeting in Norway
24 - 25 October 2019

Proposal for discussion points

**Data protection
Annex XI**

Responsible case handler: **Kristin Sæther Bangsund**

Incorporation of the GDPR into the Norwegian legal order (Case No 82794)

By letter dated 25 March 2019 (Doc No 1060463), the Authority sent a request for information to Norway, posing a number of questions in relation to the incorporation of the General Data Protection Regulation No 2016/679 ("the GDPR") into the Norwegian legal order.

The Norwegian Government replied to the request for information on 6 May 2019 (Doc No 1067671) and sent a number of attachments in relation thereto, including a completed table of correspondence ("ToC").

During the meeting, the Authority would like to discuss the case in light of the most recent correspondence in the case, including Norway's response to the request for information.

Estimated time: 45 minutes

Package Meeting in Norway
24 - 25 October 2019

Proposal for discussion points

**Transport
(Annex XIII)**

Responsible case handler: Gunnar Orn Indridason
Co-case handler: Valgerdur Gudmundsdottir

1. Application of the Regulation on Data link Services (Case No 82155)

According to Regulation No 29/2009 on data link services, air traffic service providers shall provide and operate data link services as of 5 February 2018. In a letter dated 2 July 2018 (Doc No 921657), Norway informed the Authority that the main air traffic service provider in Norway, AVINOR, had decided, following an analyses and consultation with the major Norwegian airlines, to postpone the implementation of data link services to align it with putting into operation a completely new air traffic management system. This decision was assessed, validated and supported by the Norwegian Civil Aviation Authority. The new system is, however, not expected to be fully operational until mid-2023. By letter dated 27 November 2018 (Doc No 1039369) the Authority invited Norway to make substantial improvements to its plans for the deployment of data link services, however by letter dated 26 April 2019 (Doc No 1066396), Norway informed the Authority that it was of the opinion that, in light of challenges related to the development of the new system and the data link services implementation on the legacy air traffic management system, NATCON, the current plans were the best solution to ensure deployment of the system and that pushing for earlier implementation could lead to an even later deployment.

The Authority would like to discuss the status of the implementation of the data link services in Norway as well as the issue of Norway's plan only foreseeing full implementation in mid-2023.

Estimated time: 30 minutes

Responsible case handler: Kadus Basit
Co-case handler: Gunnar Örn Indriðason

2. Complaint against Norway concerning taxis in Oslo (Case 74881)

On 6 March 2014, the Authority informed Norway that it had received a complaint concerning rules limiting access to the taxi services market in Oslo (Doc No 700930). The complainant argues that the number of available licences in a district is limited and that there are no objective criteria for assessing whether, in a given situation, there is a need for new taxi licences. Furthermore, the obligation to become affiliated with taxi centrals and to pay fees for this affiliation restricts new

entrants, has, according to the complainant, led to disproportionally high prices for taxi services in Oslo.

On 22 February 2017, the Authority issued a reasoned opinion (Doc No 818034) to Norway, finding that Norway has failed to fulfil its obligations under Article 31(1) of the EEA Agreement by maintaining rules on access to the taxi services market which provide for a system of prior authorisation, in the form of a licence, for establishing new taxi businesses. On 11 December 2017, the Norwegian Government replied to the reasoned opinion (Doc No 887740) indicating a time plan for the legislative amendments envisaged in Norway in the taxi legislation.

The status of the public consultation and the milestones suggested by Norway were discussed at the Package Meeting in Norway in October 2018. There the representatives of the Norwegian Government informed the Authority that the hearing had a deadline to submit observations until 1 January 2019.

By a letter dated 27 August 2019 (Doc No 1084803), the Norwegian Government informed the Authority that the Norwegian Parliament had adopted new legislation which was, in general, in line with the proposals which were sent out for the public hearing in October 2018. The letter also stated that the new legislation will enter into force on 1 July 2020.

At the meeting the Authority wishes to discuss the adopted legislative amendments and the implementing measures foreseen in that legislation.

Estimated time: 20 minutes

Responsible case handler: Lemonia Tsaroucha
Co-case handler: Valgerdur Gudmundsdottir

3. Application of the Directive on common rules and standards for ship inspection and survey organisations (Case No 75553)

On 24 June 2014 the Authority sent a request of information to Norway (Doc No 711441) seeking an update about the implementation and application of Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations was incorporated into the EEA Agreement by Joint Committee Decision No 30/95 of 19 May 1995 ("Directive 94/57"). The time limit for the EFTA States to adopt the measures necessary to implement the Directive expired on 31 December 1995.

Directive 94/57 has been repealed in the EU pillar by Directive 2009/15/EC of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (recast) and Regulation (EC) No 391/2009 on common rules and standards for ship inspection and survey organisations (recast), which to date have not been incorporated into the EEA Agreement.

The Norwegian Government replied on 16 October 2014 (Doc No 725888, your ref. 14/6435-6). In the correspondence that followed between the Authority (Doc No 730763 of 28 November 2014; Doc No 768695 of 6 August 2015) and Norway (Doc

No 745301, your ref. 14/6435-12 of 17 February 2015; Doc No 755317, your ref. 2015/29524-1 of 27 April 2015, Doc No 796945, your ref. 14/6435-17 of 10 March 2016) between 2014 and 2016, two main issues have been identified as problematic with the implementation of the Directive in Norway. Namely, these concern (i) the current legal framework for recognition of the six ship inspection and survey organisations authorised to carry out relevant tasks for Norway, and (ii) Norway's monitoring activities of those organisations in light of the obligations established under Directive 94/57.

On 19 September 2019 (Doc No 1050283), the Authority sent a new request for information to Norway, with a view to ensuring compliance with existing EEA rules, given that incorporation of the up-to-date legal framework does not appear to be imminent.

At the meeting, the Directorate would like to discuss with the Norwegian Government the response to its latest request for information.

Estimated time: 30 minutes

Responsible case handler: Lemonia Tsaroucha

4. Conformity assessment rights of passengers when travelling by sea and inland waterways (Case No 79405)

In July 2016 (Doc No 813371) the Authority requested information concerning the incorporation of Regulation (EU) No 1177/2010 on the rights of passengers when travelling by sea and inland waterways in Norway. Norway replied by letter in October 2016 (Doc No 822158). The Authority requested further clarifications thereon by letter sent in April 2018 (Doc No 910412).

The issue at hand concerns the effect of Section 430 of the Norwegian Maritime Code and any discrepancies this may result in with regards to the scope of the Regulation. At the package meeting in Oslo in October 2018, the Norwegian Government informed the Authority that it is aware of the issue and has already proposed an amendment to the said legislation correcting the identified error.

The Authority requested an update from Norway on 25 July 2019 (Doc No 1082010). No confirmation has been received to date from Norway regarding the pending amendment of the Norwegian Maritime Code.

At the meeting, the Directorate would like to receive a final timetable regarding the adoption of the pending legislative amendment.

Estimated time: 10 minutes

5. Follow up of the EFTA Court Case 35/15 on Port Reception Facilities (Case No 79428)

On 2 August 2016, the EFTA Court delivered its judgment in case E-35/15 (Case 35/15 - Failure by an EFTA State to fulfil its obligations - Directive 2000/59/EC on port reception facilities for ship-generated waste and cargo residues).

The EFTA Court came to the conclusion that Norway had failed to fulfil its obligations arising under Articles 5(1), 5(3) and 4(1) of the Directive within the limit prescribed, and thereby, found in favour of the Authority.

Following a request for information sent by the Authority on 30 August 2016 (Doc No 815997), the Norwegian Government, by letters dated 1 December 2016 (Doc No 829289, your ref. 12/3573), 10 April 2017 (Doc No 851842, your ref. 12/3573), 23 March 2018 (Doc No 905351, your ref. 12/3573), and 14 September 2018 (Doc No, your ref. 12/3573) informed the Authority of its plan to implement the judgement of the EFTA Court.

This case was discussed at the last package meeting in Oslo in October 2018. Thereafter, the Norwegian Government provided on 1 February 2019 (Doc No 1049889, your ref. 12/3573) an update on the status of the implementation of the Directive. In that letter, Norway informs the Authority of its objective to have valid waste reception and handling plans ("WRH-plans") available for every port in Norway by the end of 2019.

At the meeting, the Directorate would like an update on the progress achieved with this objective.

Estimated time: 10 minutes

6. Conformity Assessment on the Recreational Craft Directive (Case No 80126)

On 30 March 2016, the Directorate received a table of correspondence ("ToC") (Doc No 836727) indicating the national implementation measures notified as implementing the Directive 2013/53 on recreational craft and personal watercraft and repealing Directive 94/25/EC ("the Directive").

Based on the information provided, the Directorate carried out a conformity assessment of the implementation of the Directive, and on 17 August 2018, the Directorate sent a request for information to Norway (Doc No 926927). The Norwegian Government provided a reply to this letter on 8 October 2018 (Doc No 933205, your ref. 2014/3107-33).

Following the discussion at the last package meeting in Oslo in October 2018, there is only one pending issue to be resolved in this case, related to Section 31 of Regulation 35 of 15 January 2016, which Norway has promised to resolve via an amendment. On 15 January 2019, Norway informed the Authority via email that this should be completed before the summer (Doc No 1047421). The Authority requested via email an update on the pending amendment on 25 July 2019 (Doc No 1082051). No response has been received from Norway yet.

At the meeting, the Authority would like to receive a final timetable regarding the adoption of the pending amendment.

Estimated time: 10 minutes

7. EMSA visit to Norway on marine equipment in April 2018 (Case No 81628)

The European Maritime Safety Agency (EMSA) visited Norway between 16 and 20 April 2018 to assess the functioning of the systems in place in Norway for the implementation of Directive 2014/90/EU.

EMSA sent its final report to the Authority on 7 September 2018 (Doc No 930397 – INSP.MED.2018.AA-9639). Thereafter the Authority discussed EMSA's findings with the Norwegian Government at the package meeting in Oslo in October 2018, which is reflected in the follow-up letter to the meeting sent on 23 November 2018 (Doc No 1039214).

On 21 December 2018, the Authority received a follow-up plan to EMSA's findings from the Norwegian Maritime Authority (NMA) (Doc No 1044950). On 15 May 2019, the NMA sent a report on the actions taken on the basis of the follow-up plan (Doc No 1069920 and Annexes).

The Authority requested further clarifications on the actions taken in relation to the shortcomings in its letter of 25 July 2019 (Doc No 1077065). The NMA, on 29 August 2019 requested an extension of the deadline for a reply to the Authority's latest request until 1 November (Doc No 1085115).

The Authority wrote to the NMA on 9 September (Doc No 1086465) informing the NMA that it wishes to discuss the matter at the package meeting on 24-25 October, insisting that the response to its request of 25 July 2019 be ready by then. The NMA has confirmed on 10 September that it will have the relevant input ready to be discussed at the package meeting (Doc No 1087638).

Estimated time: 30 minutes

Package Meeting in Norway
24 - 25 October 2019

Proposal for discussion points

**Procurement
(Annex XVI)**

Responsible case handler: Rachel Harriott

1. Complaint against Norway concerning the award of exclusive rights for collection and treatment of waste (Case No 78085)

The case concerns a complaint received by the Authority on 20 October 2015 concerning the award of exclusive rights by Norwegian municipalities to state-owned private undertakings in the area of waste management (collection and treatment of waste). According to the information provided, a widespread practice exists in Norway to directly award exclusive rights and then contracts to these undertakings without a prior public call for tenders.

The Authority has issued a number of requests for information to the Norwegian Government to which the Norwegian Government has responded. The most recent request was issued on 21 June 2019 (Doc No 1074450) and responded to by the Norwegian Government on 21 August 2019 (Doc No 1084286; Your Reference: 15/2910). This exchange concerned the application of the EEA law concept of a transfer of powers and responsibilities to some of the arrangements under consideration in the case.

The Authority would like to discuss the case in light of the recent correspondence.

Estimated time: 45 minutes

2. Compliance by Norway with the judgment of the EFTA Court in Case E-4/17 in relation to the construction and operation of an underground car park (Case No 82224)

The case concerns Norway's compliance with the obligation under Article 33 of the Surveillance and Court Agreement to take the necessary measures to comply with judgments of the EFTA Court in relation to the Court's judgment in Case E-4/17, *EFTA Surveillance Authority v Norway*. The Court found that Norway had breached EEA law in relation to the award of a contract for the construction and operation of an underground car park by the Municipality of Kristiansand to Torvparkering AS ("the Contract").

The Norwegian Government has proposed that the Contract is amended to oblige Torvparkering AS to comply with public procurement rules ("the proposed measure").

The Authority has had a number of fruitful exchanges with Norway with regards to the case. In its letter of 23 July 2019 (Doc No 1081127), the Internal Market Affairs

Directorate made a number of comments in connection with the proposed measure and requested some clarifications regarding its scope. The Norwegian Government responded to that letter on 20 August 2019 (Doc No 1084122; Your Ref 15/4128-197), enclosing a letter from the Municipality of Kristiansand's lawyer dated 19 August 2019 (Doc No 1084124).

The Authority would like to discuss the scope of the measure in light of recent and future correspondence.

Estimated time: 30 minutes

3. Own-initiative case concerning a possible breach of EEA rules on public procurement in connection with the award of public contracts concerning the construction and operation of nursing homes (Case No 81105)

The case concerns a possible breach of EEA rules on public procurement in connection with the award of public contracts for the construction and operation of nursing homes that are reserved for non-profit organisations.

The Norwegian Government has published a draft proposal for new legislation regarding reserving contracts for non-profit organisations. In a letter of 30 July 2019 (Doc No 1081641), the Directorate confirmed to the Norwegian Government that it generally where the national position is subject to change in a way which is likely to have an impact on the situation under assessment in a particular case, it will await the conclusion of matters at a national level prior to taking any action in a case. Further, the Directorate stated that, in its view, the adoption or otherwise of the legislative proposal could have an impact on general practices in Norway in the future with regard to reserving contracts for non-profit organisations. To date, the Authority has not been informed of any developments with regards to the draft legislation in Norway and as such the Directorate maintains its position as set out in the letter of 30 July 2019.

The Authority would like to receive an update from the Norwegian Government on the status of the legislative proposal.

Estimated time: 30 minutes

Package Meeting in Norway
24 - 25 October 2019

Proposal for discussion points

**Labour Law
(Annex XVIII)**

Responsible case handler: **Hrafnhildur Kristinsdóttir**

1. *Complaint against Norway concerning deportation of a third-country national sent by a temporary work agency established in another EEA State (Case No 80810)*

On 7 June 2017, the Authority received a complaint which concerns the issue of whether third-country nationals sent by temporary work agencies established in other EEA States are ensured the right to work in Norway. At issue, in particular, is the requirement that a third-country national sent by an EEA company to work temporarily in Norway must be a part of the EEA company's permanent work force.

A request for information was sent on 17 August 2017 (Doc No 862303). Norway replied on 15 September 2017 (Doc No 873705 / your ref. 17/2212).

The case was discussed at the package meetings in 2017 and 2018.

By letter dated 6 September 2019 (Doc No 1084507), the Authority sent a supplementary request for information to Norway, asking for further clarifications concerning the requirement of being part of the EEA company's permanent workforce. The deadline for Norway to respond is 6 October 2019.

At the meeting, the Authority would like to discuss the case in light of the most recent correspondence.

Estimated time: 45 minutes

2. *Conformity assessment on the implementation in Norway of the Directive on temporary agency work (2008/104/EC) (Case No 76521)*

Directive 2008/104/EC on temporary agency work was incorporated into the EEA Agreement by EEA Joint Committee Decision No 149/2012 of 13 July 2012. The compliance date for the EEA/EFTA States to implement the Directive was 1 May 2013.

On 24 April 2013, the Authority received a Form 1 (Doc No 677415) from the Norwegian Government indicating full implementation of the Directive. The notification was accompanied by a table of correspondence (Doc No 677422).

The Authority decided to open a conformity assessment case of the implementation of the Directive into the Norwegian legal order.

A request for information to Norway was sent on 8 January 2015 (Doc No 731939). The Norwegian Government was invited, in accordance with Article 4(5) of the Directive, to provide the Authority with information concerning restrictions and prohibitions on the use of temporary agency work, whether laid down by law or by collective agreements, together with their justification on grounds of public interest and compliance with the principle of proportionality. The reply from the Norwegian Government was received on 31 March 2015 (Doc No 752762 / your ref. 15/30).

The case was discussed at the package meeting in November 2015 and at a meeting in Brussels on 19 February 2016.

On 29 February 2016 (Doc No 795202, 795204-795209), 31 January 2017 (Doc Nos 838870 and 838872) and 3 July 2017 (Doc No 864646), the Norwegian Government provided additional information requested by the Authority at the package meetings of, respectively, 2015 and 2016.

The case was discussed at the package meeting in October 2017 and again at the package meeting in October 2018. At the latter meeting, the representatives of the Norwegian Government informed that a proposal to repeal Section 27(1)(2) of the Labour Market Act (setting out a prohibition to assign a temporary agency worker to his/her former employer in the first six months after the termination of the contract of employment) would be sent for public consultation in spring 2019.

By letter dated 10 April 2019 (Doc No 1064033 / your ref. 15/30-41), the Norwegian Government confirmed its aim to send a proposal for repeal of this provision on a public consultation during spring 2019. By letter dated 2 September 2019 (Doc No 1085552), the Authority requested information on the status of these legislative amendments. Norway's deadline to provide the requested information is 2 October 2019.

At the meeting, the Authority would like to be informed about the status of the legislative amendments aimed at repealing Section 27(1)(2) of the Labour Market Act.

Estimated time: 30 minutes

Package Meeting in Norway
24 - 25 October 2019

Proposal for discussion points

**Environment
(Annex XX)**

Responsible case handler: **Marthe Kristine Fjeld Dystland (Item 1 and 3)**
Anne De Geeter (Items 1 and 2)

1. Management of waste from extractive industries (Case No 80563)

The case concerns the implementation of *Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC* (the Mining Waste Directive).

On 29 March 2017, the Authority received a complaint concerning the permits granted for the disposal of mining waste in Førdefjord and Ranfjord in 2015 and in respect of the Repparfjord in 2016. The complainant alleges that the granting of these permits breaches the requirements of the Mining Waste Directive, since no waste management plans were included in the permit application.

On 25 September 2017, the Authority sent a request for information to Norway (Doc No 871583). Norway responded by letter dated 16 October 2017 (Doc No 878329). The case was subsequently discussed at the package meeting in October 2017. In January 2018, Norway provided additional information and documentation (Doc No 893918). On 27 August 2018, after having examined this additional information, the Authority sent a second request for information (Doc No 902273). Norway responded on 28 September 2018 (Doc Nos 932890 and 932888). At the package meeting on 25 and 26 October 2018, the Authority asked for a detailed explanation on how the requirements of the Mining Waste Directive have been reflected. Norway responded by letter of 7 June 2019 (Doc No 1074134).

At the meeting, the Authority would like to discuss the current status of the case and that the Norwegian Government presents how the requirements of the Mining Waste Directive are reflected in the Norwegian legal order.

Estimated time: 30 minutes

2. Complaint against Norway alleging breach of Directives 2011/92 ("EIA Directive") and Directive 2001/42 ("SEA Directive") (Case No 83059)

The case concerns the implementation of *Directive 2011/92 on the assessment of the effects of certain public and private projects* (the EIA Directive) and *Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment* (the SEA Directive). By letter of 12 February 2019 (Doc No 1051138), the Authority informed the Norwegian Government that it received a complaint regarding the administrative practice in Norway towards the omission to

conduct environmental impact assessments required by the EIA and SEA Directives.

By letter of 17 April 2019, the Authority requested the Norwegian Government to provide information (Doc No 1063874). The Norwegian Government provided information on 17 June 2019 (Doc No 1075209).

At the meeting, the Authority would like to discuss the information provided by Norway.

Estimated time: 30 minutes

3. Air Quality – follow up of Norway's compliance with EFTA Court judgment E-7/15 (Case78329)

On 2 October 2015, the EFTA Court handed down its judgment in Case No E-7/15, finding that Norway had surpassed the limit values for a number of pollutant gases across various zones and, in addition, had failed to comply with the air quality plan obligation as set out in Article 8(3) of Directive 96/62/EC, now Article 23 of Directive 2008/50. By way of letter dated 30 November 2015 (Doc No 782330) the Authority informed Norway that it had opened an own initiative case to follow up on Norway's compliance with the EFTA Court's judgment.

Since then, Norway has regularly kept the Authority updated on the measures it has put in place, most notably to meet the requirement to draw up air quality plans in the required areas, in particular in the Oslo zone. The case was most recently discussed at the 2018 package meeting which took place in Oslo.

At the meeting, the Authority would like to be updated on the status of the air quality plan for Oslo. The Authority would also like to be informed about the most recent figures regarding compliance with the limit values set out in Directive 2008/50 across Norway.

Estimated time: 30 minutes

Other
Taxation of future EU pensions

Responsible case handler: Ruta Janeckaite

Own-initiative case against Norway concerning privileges and immunities of EASA staff (Case No 80813)

On 13 June 2017 (Doc No 861090), the Authority informed the Norwegian Government that it had opened an own initiative case to investigate the application in Norway of Article 30 of Regulation (EC) No 216/2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (EASA). In particular, a clarification was requested on the national tax treatment of pensions received by Norwegian nationals who were former employees of EASA and other EU agencies and bodies.

The Norwegian Government submitted its reply on 20 October 2017 (Doc No 883920, ref. 17/3669). The issue was further discussed at the package meeting in Oslo on 27 October 2017.

In its letter dated 18 September 2018 (Doc No 929021), the Authority sent an additional request for information, asking Norway to provide clarifications relevant to the case, together with copies of any relevant national legislation. On 19 October 2018 (Doc No 935382, ref. 17/3669), Norway submitted its reply, which was further discussed at the package meeting in Oslo on 25-26 October 2018. However, the Norwegian Government has not provided the Authority with any further clarifications as agreed at the package meeting.

At the meeting, the Authority's representatives would like to discuss the issue in light of the forthcoming correspondence from the Authority.

Estimated time: 45 minutes