

Case No: 70957  
Event No: 681537  
Dec. No: 55/14/COL

## EFTA SURVEILLANCE AUTHORITY DECISION

of 12 February 2014

to close the case concerning the financing of safety training courses by county schools

(Norway)

The EFTA Surveillance Authority (“the Authority”),

HAVING REGARD to:

The Agreement on the European Economic Area (the “EEA Agreement”), in particular to Article 62 and Protocol 26 thereof,

The Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“the Surveillance and Court Agreement”), in particular to Article 24 thereof,

Article 1(1) of Part I and Article 19(1) of Part II of Protocol 3 to the Surveillance and Court Agreement (“Protocol 3”),

WHEREAS:

- (1) By letter dated 1 March 2012,<sup>1</sup> the Authority initiated the procedure provided for in Article 17(2) of Part II of Protocol 3 with respect to the financing of safety training courses by county schools, thereby informing the Norwegian authorities of its preliminary view that the financing of safety training courses by county schools involved state aid that was incompatible with the functioning of the EEA Agreement.
- (2) The measure assessed by the Authority is whether county schools in Norway have benefitted from cross-subsidisation in providing safety and emergency training courses (“safety training courses”) to employees of the offshore and maritime industries.
- (3) On 26 June 2013, by Decision No 267/13/COL, the Authority concluded that the current financing of safety training courses offered by county schools on the market through State resources constituted existing state aid which was incompatible with the functioning of the EEA Agreement.<sup>2</sup>
- (4) In particular, the Authority concluded that the current financing scheme of county schools in Norway does not prevent the use of state resources, granted to the schools for non-economic activities (e.g. those coming within the ambit of the national education

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<sup>1</sup> Event No 610263.

<sup>2</sup> The EFTA Surveillance Authority Decision No 267/13/COL of 26.6.2013 proposing appropriate measures with regard to state aid granted to finance safety training courses by county schools, available on the Authority’s website: <http://www.eftasurv.int/media/decisions/267-13-COL.pdf>

obligation), from cross-subsidising the economic activities of those schools (e.g. those corresponding to the safety training courses offered on the market).

- (5) The Authority stipulated that the Norwegian authorities should take the following cumulative appropriate measures to ensure that the financing of safety training courses by county schools would not entail state aid:
- i. encourage county schools to incorporate their economic activities into separate legal entities;
  - ii. ensure that these separate legal entities pay market prices for the use of the schools' infrastructure and workforce according to a clear, pre-defined and objective price formula; and
  - iii. introduce an adequate system of control, so as to enable the Norwegian authorities to monitor that these separate legal entities effectively pay such market prices.
- (6) *Alternatively*, in the event county schools do not wish to incorporate their economic activities into separate legal entities, the Authority stipulated that the Norwegian authorities should introduce a legally binding obligation under the scheme in order to ensure that the following cumulative measures are taken:
- i. there is a proper, consistent and transparent separation of accounts between the non-economic activities (e.g. those coming within the ambit of the national education obligation) and the economic activities (e.g. those corresponding to the safety training courses offered on the market) of the county schools;
  - ii. there is a consistently applied, objectively justifiable and clearly defined cost allocation model in place to ensure that the economic activities of the schools cover all costs related to their operations, including all variable costs and an appropriate contribution to fixed costs; and
  - iii. there is an adequate system of control enabling the Norwegian authorities to monitor that cross-subsidisation between the two types of activities is not taking place.
- (7) By letter dated 29 August 2013,<sup>3</sup> the Norwegian authorities accepted the appropriate measures proposed by the Authority. By letter dated 13 December 2013,<sup>4</sup> the Norwegian authorities specified how they intended to implement these appropriate measures. The Norwegian authorities have agreed to initiate a legal process aimed at introducing a legally binding obligation in accordance with the measures proposed by the Authority (as set out in paragraph (6) above). They intend this obligation to take effect from 1 January 2015. The new obligation will be included in the Accounting Regulations,<sup>5</sup> which have been adopted pursuant to Section 48 of the Norwegian Local Government Act.<sup>6</sup> These Accounting Regulations, which are legally binding upon all municipalities and counties, contain specific rules regarding the keeping of accounts for municipalities and counties and also contain procedures for the adoption of the annual accounts by the municipality or

<sup>3</sup> Event Nos 681302 and 681303.

<sup>4</sup> Event Nos 693485, 693486 and 693487.

<sup>5</sup> FOR-2000-12-15-1424, *Forskrift om årsregnskap og årsberetning (for kommuner og fylkeskommuner)*.

<sup>6</sup> LOV-1992-09-25-107, *Lov om kommuner og fylkeskommuner (kommuneloven)*.

county councils. In particular, the Norwegian authorities intend to add a new paragraph 9 to Section 5 of the Accounting Regulations and will contain the following obligations:

- a. Counties offering safety training courses on the market are to prepare on an annual basis financial statements which clearly distinguish between the activities that fall under the national education obligation and those that relate to the offering of safety training courses on the market (separation of accounts).
  - b. The income and costs related to the various activities are to be allocated according to consistent, objective and justifiable principles, which should also be disclosed, in order to ensure that the economic activities of the schools cover all costs related to its operations, including all variable costs and an appropriate contribution of the fixed costs.
- (8) In addition, the obligations imposed by this new paragraph will be included in the annual audit of the counties, which is mandatory pursuant to Section 76 of the Norwegian Local Government Act and which provides, *inter alia*, that the municipal council and the county council shall ensure that the municipal and county authority accounts are audited in a satisfactory manner.
- (9) The Authority considers that the proposed legislative changes to the aid scheme for the financing of safety training courses by county schools will ensure compliance with the functioning of the EEA Agreement.
- (10) On the basis of the above, the Authority concludes that there are no grounds for pursuing the matter further and has consequently decided to close the case.
- (11) The present decision is without prejudice to the possibility for the Authority to continuously assess existing aid schemes under Article 1(1) of Part I of Protocol 3 and to propose appropriate measures required by the progressive development or the functioning of the EEA Agreement.

HAS ADOPTED THIS DECISION:

#### *Article 1*

The EFTA Surveillance Authority records the Kingdom of Norway's acceptance of the appropriate measures proposed by the Authority in its Decision No 267/13/COL on the financing of safety training courses by county schools and further outlined in the present Decision.

#### *Article 2*

The case concerning the financing of safety training courses by county schools is hereby closed.

#### *Article 3*

This Decision is addressed to the Kingdom of Norway.

*Article 4*

Only the English version is authentic.

Done at Brussels, 12 February 2014.

*For the EFTA Surveillance Authority*

Oda Helen Sletnes  
*President*

Frank Büchel  
*College Member*