


EFTA SURVEILLANCE AUTHORITY

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EFTA SURVEILLANCE AUTHORITY DECISION

OF 16 DECEMBER 1999

ALTERATION AND PROLONGATION OF HIGHER AID INTENSITIES FOR REGIONAL AID
SCHEMES IN INNER FINNMARK- RESTRUCTURING
OF TRADITIONAL SAMI ACTIVITIES

(NORWAY)

THE EFTA SURVEILLANCE AUTHORITY,

HAVING REGARD TO the Agreement on the European Economic Area¹, in particular Articles 61 to 63,

HAVING REGARD TO the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice², in particular Article 1 of Protocol 3 thereof,

HAVING REGARD TO the Authority's Guidelines³ on the application and interpretation of Articles 61 and 62 of the EEA Agreement,

WHEREAS:

I. FACTS

1. The notification

¹ Hereinafter referred to as the EEA Agreement.

² Hereinafter referred to as the Surveillance and Court Agreement.

³ Published in O J L 231 on 03.09.94, and in the EEA Supplement thereto No 32 on the same date, last amendment (21st) adopted by Decision No 276/99 COL of 17.11.99 (not yet published).

By letter of 11 May 1999 (Doc.No.99-3501A) the Norwegian authorities notified, pursuant to Article 1(3) of Protocol 3 to the Surveillance and Court Agreement, plans to amend and prolong the application of higher aid intensities for two existing regional aid schemes within four municipalities in the County of Finnmark.

Higher aid intensities for the application of the Investment grants scheme and the Company development grants scheme in the four municipalities Karasjok, Kautokeino, Porsanger and Tana, was approved by the Authority in 1994⁴ and 1998⁵, the second time for a period limited to 31 December 1999. The Norwegian authorities propose to reduce the intensity for the Investment grants scheme from 50 per cent gross to 45 per cent gross and to keep the aid intensity for the Company development grants scheme at 75 per cent gross in these four municipalities until 31 December 2000. The aid is confined to small and medium-sized enterprises (SMEs).

By letter dated 21 May 1999 (Doc.No. 99-3700-D), the EFTA Surveillance Authority acknowledged the receipt of the letter dated 11 May 1999 from the Mission of Norway to the European Union. In the same letter the Authority also asked the Norwegian Authorities to agree to an extension of the time limit for the decision on higher aid intensities for regional aid schemes in Inner Finnmark.

By letter dated 8 September 1999 (Doc.No. 99-6639A) the Norwegian Authorities accepted an extension of the time limit provided that a decision is made before the end of November 1999. By telefax dated 9 December 1999 (Doc.No. 99-9470A) the Norwegian Authorities have agreed to an extension of the time limit as long as a decision is made at the latest within 16 of December 1999.

2. The Restructuring Programme for Inner Finnmark

Higher aid intensities for the application of the Investment grants scheme and the Company development grants scheme in the four municipalities Karasjok, Kautokeino, Porsanger and Tana, is part of the Restructuring Programme for Inner Finnmark. The programme was established by Parliament decision in 1993 for a limited period of 5 years (up to 31 December 1998). The Government decided to extend the restructuring period until 31.12.2000. The long-term objective of the Programme is to "strengthen and expand the economic base in the Sami settlement areas in general and to widen the material basis for the Sami culture in general".⁶

The background for establishing the programme is the severe crisis in reindeer breeding. The restructuring measures directed towards reindeer breeding (not subject of this Decision) aim at reducing the total livestock of reindeer in order to achieve a sustainable balance between the total number of reindeer and the available resources of grazing land. The number of persons involved in reindeer breeding will be reduced accordingly.

⁴ Dec.No. 107/94/COL of 28 September 1994

⁵ Dec.No. 374/98/COL of 16 December 1998.

⁶ St.meld.no. 28 (1991-92), page 92.

3. Geographical coverage

The four municipalities of Kautokeino, Karasjok, Tana and Porsanger cover 50 per cent of the County of Finnmark.

In addition to the very particular climatic and topographic conditions in this part of Norway, the population densities in Kautokeino, Karasjok, Tana and Porsanger are very low (0.32, 0.52, 0.77 and 0.91 inh/km², respectively). The total population in the four municipalities is 13.453 persons. The total population in Finnmark County is 74.130 persons⁷.

The four municipalities fall within the geographical limitation of target zone A for regional aid. Target zone A covers the whole area of the county of Finnmark and four neighbouring municipalities in the county of Troms.

4. EFTA Surveillance Authority decisions in 1994 and 1998

The EFTA Surveillance Authority decided in 1994 and in 1998⁸ not to raise objections to the proposed higher aid intensities for the two regional aid schemes in the four municipalities of Karasjok, Kautokeino, Tana and Porsanger. The first decision was limited for a period of time to 31 December 1998 and the second decision was limited for a period of time to 31 December 1999.

The Norwegian Government was also obliged to notify individually to the Authority all awards of aid to investment projects in the four municipalities referred to above which exceeded ECU 1.5 mill. in cases when the aid intensity exceeded the generally applicable aid ceiling for target zone A, Finnmark and North Troms, which was 40 per cent NGE of the eligible investment costs in 1994 and 30 per cent NGE of the eligible investments costs in 1998.

The Norwegian Government was furthermore obliged to submit a separate simplified annual report on the application of the regional aid schemes in the four municipalities to the Authority (in accordance with chapter 32 of and Annex IV of the State Aid Guidelines).

5. Exceptional circumstances

The Norwegian authorities hold that the municipalities of Karasjok, Kautokeino, Tana and Porsanger, are exceptional in a European and Norwegian context due to the high percentage of Sami population in this area. The Norwegian authorities emphasise that the Sami population, characterized as an indigenous people, is now protected by ILO Convention No. 169; Indigenous and Tribal People in Independent Countries, ratified by Norway in June 1990. The protection of the Sami culture and Sami interests includes the protection of their traditional occupations essential for Sami identity. In

⁷ Source: Notification of 3 May 1999 (Doc.No.99-3180A). The figures are from January 1999.

⁸ See footnotes 4 and 5.

the spirit of the ILO Convention, the Restructuring Programme for Inner Finnmark is oriented towards traditional Sami industries and the protection of the future occupation of this particular economic activity. The Restructuring Programme represents, according to the Norwegian authorities, a way of avoiding some well known effects of collective action in reindeer breeding, namely the excessive use of grazing land.

6. The contents of the proposed measures

The Norwegian authorities propose that the maximum eligible aid intensity for the Investment grants scheme in the municipalities Karasjok, Kautokeino, Tana and Porsanger in the county of Finnmark shall be 45 per cent gross until 31 December 2000. This is a reduction of 5 percentage points compared to the maximum aid intensity applicable up to 31 December 1999 in these municipalities. For the Company development grants scheme, the Norwegian authorities propose a prolongation of the existing maximum aid intensity of 75 per cent gross, also up to 31 December 2000. Both of the aid schemes are confined to SMEs.

II. APPRECIATION

1. Notification formalities

The notified aid is being funded by State resources in the meaning of Article 61(1) of the EEA Agreement and will favour certain undertakings in the meaning of Article 61(1). As the benefiting enterprises are actually or potentially in competition with similar undertakings in Norway and other EEA states, and the proposed aid threatens to affect trade and distort competition, the scheme therefore constitutes State aid in the meaning of Article 61(1) of the EEA Agreement.

The Norwegian authorities have, by the notification dated 3 May 1999 (Doc.No.99-3180A), fulfilled their obligation under Article 1(3) of Protocol 3 to the Surveillance and Court Agreement in notifying plans to grant or alter aid. Consequently, the EFTA Surveillance Authority is obliged to assess whether any of the exemption clauses under Article 61(2) or (3) are applicable in order to exempt the aid measure from the general prohibition of aid under Article 61(1).

2. Assessment

- Restructuring Programme

The EFTA Surveillance Authority takes note of the fact that the higher aid intensities have been an important part of the restructuring programme in Inner Finnmark and that the program expires 31 December 2000.

- Exceptional circumstances

The EFTA Surveillance Authority recognises that the four municipalities of Inner Finnmark are exceptional in an EEA context.

Kautokeino, Karasjok, Tana and Porsanger have a very high percentage of Sami population (90, 85, 65 and 40 per cent, respectively). The Sami population is characterised as an indigenous people (the only group within the EEA-area) protected by the ILO Convention No. 169, Indigenous and Tribal People in Independent Countries. The protection of the Sami culture and Sami interests includes the protection of their traditional occupations essential for Sami identity. The purpose of higher aid intensities for the investment grants and the company development grants is to strengthen and extend the economic basis in the Sami areas.

Secondly, the four municipalities are extremely sparsely populated with population densities between 0.91 (Porsanger) and 0.32 (Kautokeino) inh/km². The respective aerial lines to the regional administrative and commercial centre of Tromsø are between 180 and 357 km. The total population of all four municipalities amounts to only 13,453 persons. The Authority acknowledges that the low population density is an obstacle for business development in the region.

Thirdly, labour force statistics and statistics of living conditions indicate considerable problems in the four municipalities. Unemployment figures range from 10.3 per cent in Kautokeino to 4.1 per cent in Karasjok, while the unemployment for Finnmark County is 5.6 per cent. The number of people outside the labour market, as per cent of persons between 20 and 66 years old, range from 22.1 in Kautokeino to 24.3 in Tana. (Figures for Karasjok and Porsanger are in between). The average for Norway is 15.1 per cent. The number of persons receiving social security benefits, including disablement and rehabilitation benefits, are also higher than the national average⁹.

- Eligibility for regional aid

- Investment grants scheme.

In 1994 the Authority approved a maximum aid intensity of 60 % gross for investment in SMEs in the four municipalities subject to the present decision. This aid ceiling was valid until the end of 1998, and was in addition to the special situation in these municipalities, also based on the fact that they belonged to target zone A in the regional aid map for Norway¹⁰. Target zone A had at that time 61(3)(a) status.

When the Authority approved a new regional aid map for Norway in April 1998¹¹, target zone A lost its 61(3)(a) status and acquired 61(3)(c) status, where the maximum aid intensity cannot be higher than 30 % NGE, ref Chapter 10.3.2 of the State aid Guidelines. However, according to Chapter 25.5(6) of the Guidelines such regions

⁹ As described in the notification.

¹⁰ Ref Dec. No. 157/94/COL of 16 November 1994.

¹¹ Dec. No. 110/98/COL of 28 April 1998.

may qualify for a gradual reduction in the aid ceiling. Against this background the Authority approved¹² an investment aid ceiling of 50 % gross in the four municipalities covering the year 1999. Against the same background the EFTA Surveillance Authority finds it justified to reduce the aid intensity for the Investment grants scheme in the four municipalities from 50 per cent gross to 45 per cent gross for a period limited to 31 December 2000. This is in accordance with the notification from the Norwegian authorities.

- Company development grants scheme.

The aid intensity for the Company development grants scheme of 75 per cent gross was approved in 1994¹³ and 1998¹⁴ on the basis of exemption under Art. 61(3)(c)¹⁵ of the EEA Agreement. Based on the fact that the State Aid Guidelines (Chapter 10) makes it possible, in certain exceptional circumstances (assisted areas is one such case), to allow aid above the general ceiling of 50 per cent gross¹⁶, and taking into consideration the special problems in Inner Finnmark, the EFTA Surveillance Authority finds it justified to approve a prolongation of 75 per cent gross until 31 December 2000.

3. Additional notification and reporting obligations

The Norwegian authorities are obliged to notify individually to the Authority all awards of aid to investment projects in the four municipalities referred to above exceeding EUR 1.5 mill. in cases when the aid intensity exceeds the generally applicable aid ceiling for target zone A, Finnmark and North Troms, currently 30 per cent NGE of the eligible investment costs.

The Norwegian Authorities are also required, in accordance with Chapter 32 of the State Aid Guidelines, to submit a separate simplified annual report on the application of the Investment grants scheme and the Company development grants scheme in the four municipalities of Kautokeino, Karasjok, Tana and Porsanger. The format of the report is indicated in Annex IV to the State Aid Guidelines. The submission of annual reports is considered necessary for the Authority to fulfil its obligation under Article 1(1) of Protocol 3 of the Surveillance and Court Agreement to keep all existing systems of State aid under constant review in co-operation with the EFTA States.

4. Conclusion

The criteria and the intensities foreseen for the application of the Investment grants scheme and the Company development grants scheme in Inner Finnmark reflect the criteria set out in the State Aid Guidelines (Chapters 25 and 10, respectively) for aid

¹² Dec. No. 374/98/COL of 6 December 1998.

¹³ See footnote 4.

¹⁴ See footnote 5.

¹⁵ State Aid Guidelines, Chapter 10, Aid to small and medium-sized enterprises.

¹⁶ Chapter 10.3.2.3 of the State Aid Guidelines.

under Article 61(3)(c) of the EEA Agreement. Aid awards may therefore be justified with reference to aid to facilitate the development of certain economic activities without adversely affecting trading conditions between the Contracting Parties to an extent contrary to the common interest. It is therefore concluded that aid in the form of investment grants up to 45 per cent gross and company development grants up to 75 per cent gross in the four municipalities Kautokeino, Karasjok, Tana and Porsanger, until 31 December 2000, qualify for exemption under Article 61(3)(c) of the EEA Agreement.

HAS ADOPTED THIS DECISION:

1. The EFTA Surveillance Authority has decided not to raise objections to the proposed alteration, and prolongation until 31 December 2000, of the aid intensities for the regional aid schemes in the four municipalities of Karasjok, Kautokeino, Tana and Porsanger in Inner Finnmark as notified by letter from the Norwegian authorities of 3 May 1999 (Doc.No.99-3180A).
2. The Norwegian authorities are obliged to notify individually to the Authority all awards of aid to investment projects in the four municipalities referred to above exceeding EUR 1.5 mill. in cases when the aid intensity exceeds the generally applicable aid ceiling for target zone A, Finnmark and North Troms, currently 30 per cent NGE of the eligible investment costs.
3. The Norwegian Government is obliged to submit a separate simplified annual report to the EFTA Surveillance Authority on the application of the Investment grants scheme and the Company development grants scheme in the four municipalities of Kautokeino, Karasjok, Tana and Porsanger (in accordance with Chapter 32 and Annex IV of the State Aid Guidelines).
4. This Decision only refers to the particular application of the above mentioned Regional aid schemes in the municipalities of Karasjok, Kautokeino, Tana and Porsanger and does not prejudice the future position of the Authority with respect to further examination of existing aid measures and/or the system of regional aid in Norway.

Done at Brussels, 16 December 1999

For the EFTA Surveillance Authority

Knut Almestad
President

Hannes Hafstein
College Member