

Brussels, 15 March 2023
Case No: 90112
Document No: 1352472
Decision No 046/23/COL

Ministry of Trade, Industry and Fisheries
PO Box 8090 Dep
0032 Oslo
Norway

Subject: Affordable homes scheme for the City of Oslo

1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform Norway that, having assessed the aid granted to the Agency of Real Estate and Urban Renewal¹ (“the Agency”), by the Municipality of Oslo (“the Municipality”) for the administration of the affordable homes scheme (“the measure”) in Oslo, it considers that it constitutes State aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections² to the measure, as it is compatible with the functioning of the EEA Agreement, pursuant to its Article 59(2). ESA has based its decision on the following considerations.

2 Procedure

- (2) The Norwegian authorities notified the measure on 10 March 2023.³

3 Description of the measure

3.1 Background

3.1.1 *The Norwegian housing policy*

- (3) The Norwegian housing policy pursues the aim that people, as far as possible, should own their home, the so-called “*eierlinja*”.⁴ Norway has a strong home ownership culture, and owning a home is viewed as an important step into adulthood, after finding employment.
- (4) According to the Norwegian authorities, owning a home gives people better control of their living situation and contributes to social equality, as people accumulate housing wealth instead of paying rent to a landlord. As an asset, home ownership can provide financial and social security in a lifelong perspective.

¹ Or to any other Agency within the Municipality that is given responsibility to perform the same tasks with regards to the affordable homes scheme.

² Reference is made to Article 4(3) of Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

³ Document Nos 1358568, 1358570, 1358572, 1358566 and 1358574.

⁴ For a further description of the housing policy, see [NOU 2011:15](#) *Rom for alle: En sosial boligpolitikk for framtiden*, Chapter 7, p. 53.

- (5) People's tendency to take better care of a home that they own also represents a value to society. Furthermore, home ownership is associated with local sustainability, especially when it comes to social integration of vulnerable groups, safe and stable housing conditions and strengthened community relations and participation.⁵
- (6) Traditionally, a high proportion of the Norwegian population owns their homes and according to the Norwegian authorities, the rental sector is smaller than in many other European countries. In the Norwegian tradition, the rental sector is primarily aimed at serving a temporary housing need, that occurs prior to home ownership. According to figures from Statistics Norway, 76.4% of households owned their homes in 2021, while 23.6% rented a home. In 2022, 68.4% of households in Oslo owned the house or apartment they lived in, while 31.6% of households rented their homes. In Oslo, the latter accounts for approximately 110 000 households of approximately 180 000 people.⁶

3.1.2 The market for sale and purchase of homes in Oslo

3.1.2.1 Challenges in the market for sale and purchase

- (7) The housing development market in Norway is characterised by a few dominant actors.⁷ Large housing developers, such as OBOS, Selvaag, JM, Stor-Oslo Eiendom, Fredensborg and USBL are present in the market and three operators control 79% of the share of potential housing units through real estate ownership and a large part of the housing supply.
- (8) Oslo has experienced a high population growth and housing development is struggling to meet demand. According to population projections, there is a need for approximately 2 000 to 4 000 housing units per year in Oslo for the next five years.
- (9) Simultaneously to the increase in population, there has been a severe increase in housing prices. Housing prices in Oslo increased by around 208% from 2002 to 2020. By comparison, wages increased by 92%, rent by 72% and the consumer price index by 43% during the same period.⁸ The increase in housing prices has led to housing prices in Oslo pulling away from housing prices in other towns and cities in Norway, and prices per square metre are around 75% higher in Oslo than the national average.⁹
- (10) To ensure financial stability and hinder financial vulnerability in households and financial institutions, as well as to help slow the growth in housing prices, the Norwegian authorities have put in place a regulation relating to the lending practices of financial undertakings ("the Lending Regulation").¹⁰ The Lending Regulation puts stringent conditions on people to obtain housing loans from banks. According to the Lending Regulation, a bank shall not furnish a loan if the applicant's total debt exceeds five times its annual income ("debt-to-equity

⁵ *Ibid.*

⁶ Table from Statistics Norway (SSB) Table [11084](#).

⁷ Norwegian Competition Authority (2015): [Konkurransen i boligutviklermarkedet](#)

⁸ The Norwegian authorities have provided a graph from Statistics Norway and Boligbygg, that shows the development in CPI, rent, house prices and wages from 2002 up to and including 2020.

⁹ Based on Eiendom Norge AS's price index for August 2021.

¹⁰ The Lending Regulation, [Forskrift om finansforetakens utlånspraktis \(utlånsforskriften\)](#), FOR-2020-12-09.

ratio”).¹¹ The borrower’s ability to service debt is calculated based on an interest rate which is three percentage points higher than the prevailing level. However, the bank cannot apply an interest rate lower than 7%.

- (11) In addition, a loan secured by mortgage on a primary residence shall not exceed 85% of the market value of a property.¹² The size of required funds keeps increasing because of the increase in housing prices. People who do not own their home do not have the chance to accumulate sufficient funds through price growth and the repayment of a loan.
- (12) This development has led to a situation, where people with a relatively normal income, and sufficient economical means to pay down on a housing loan monthly, have difficulties accessing the housing ownership market. People who do not have savings, or access to funds through other means, such as for example their parents, therefore risk being excluded from the housing ownership market in Oslo, regardless of their income and ability to pay down a loan.
- (13) The Norwegian authorities have evidenced this problem by referring to the so-called “nurse index”.¹³ The nurse index provides an indication of whether housing is expensive, considering interest rates and income levels. The income of a nurse is used as an example to represent what is considered a normal Norwegian income that is more or less independent of the economic cycles. Based on the nurse index, a single household with such an income can only afford buying approximately 1.5 % of the housing in Oslo in 2022.¹⁴ Historical background data illustrates that in 2011, a person with a normal income could afford 39.1% of the homes sold.

3.1.2.2 Existing assistance for purchasing of homes and alternative housing solutions

- (14) To enable people to purchase their own homes, the Municipality grants start loans, in combination with municipal grants, through funds provided by the Norwegian Housing Bank.¹⁵ The start loans are reserved for people with long-term financial difficulties that often have an unstable employment situation and income. Start loans are limited by allocations from the Housing Bank to the Municipality.
- (15) At present, OBOS, Fredensborg, Oslobolig¹⁶ and USBL, which are all active in the Oslo housing market, offer alternative purchasing solutions (“alternative solutions”) for people to be able to buy their home. USBL does not currently provide alternative solutions in Oslo.
- (16) OBOS provides an alternative solution of direct purchase of homes, to a price equal to approximately 90% of market value (“the OBOS-solution”). OBOS and Oslobolig offer an alternative solution of part-ownership, where a person owns part of the home and rents the remaining part. Fredensborg and USBL offer a

¹¹ The Lending Regulation, Section 6.

¹² The Lending Regulation, Section 7.

¹³ The nurse index, “[Sykepleierindeksen](#)” is an affordability index prepared by the company Eiendomsverdi AS and Eiendom Norge.

¹⁴ [Sykepleierindeksen](#), finding that a nurse could afford 1.5 of homes sold in 2022 with a loan preapproval letter for NOK 2,890,000.

¹⁵ Pursuant to the Housing Bank Regulation, [Forskrift om lån fra Husbanken](#), FOR-2019-11-18-1546.

¹⁶ Oslobolig is jointly owned by OBOS, NREP, BaneNor Eiendom and the Municipality.

solution of rent-to-own, where a person rents the property, with an option to buy the property that allows them to save equity through a potential price increase. To qualify for part ownership or rent-to-own, a bank will have to make a positive evaluation of the applicant's ability to buy the home in five years, based on income, own funds, future prospects, other commitments, and assets. While Oslobolig is the only operator solely in Oslo, established for the purpose of providing alternative solutions, the others provide alternative solutions as a part of their total home portfolio.

- (17) Gathering numbers of homes sold under alternative solutions in Oslo is difficult, because the numbers available relate to sales on a national level.¹⁷ The Norwegian authorities however estimate that in 2021 and 2022, approximately 500 homes have been built and sold under alternative solutions in Oslo.¹⁸

3.1.3 The rental market

- (18) Some of the inhabitants in Oslo are on the rental market. The rental market is also struggling to meet demand.¹⁹ The rental market in Norway is dominated by private individuals offering homes to rent. In Oslo 41.7% of the market is served by private individuals. Professional rental actors serve 43.8% of the market,²⁰ rental arrangements through employment or relatives and friends constitute 8.9% and student housing accounts for 0.8%.
- (19) Municipal housing represents a share of 4.8% of the rental market. Municipal housing is allocated to disadvantaged inhabitants in Oslo through time-limited rental agreements.²¹ As the total demand is greater than the available housing, many applicants are not granted housing even if they meet the qualification criteria.

3.1.4 Consequences of the current market situation for sales and purchases of homes

3.1.4.1 Social inequality and housing segregation

- (20) According to the Norwegian authorities, there is a wider link between home ownership, generational wealth, immigration status and income. Home ownership is decreasing among people with low education, low income, and immigrant background, while remaining relatively stable for the population at large.²² Housing wealth is to an increasing degree disproportionately distributed among the population, with the wealthiest increasing their share.²³

¹⁷ According to Norwegian authorities, OBOS is the biggest provider with a sale of 892 such homes in Norway in 2022 (38% of all OBOS homes sold that year). They have found that Fredensborg sold 54 homes with alternative purchasing solutions in Norway in 2021. USBL and Oslobolig have just recently established their models and have each from 10 to 20 homes for sale.

¹⁸ This is based on the Agency for Planning and Building Services having counted the numbers of homes sold with alternative purchasing solutions in Oslo. These numbers show that 219 homes were built in 2021, while 279 homes were built in 2022.

¹⁹ According to an evaluation carried out by the Norwegian Consumer Council in 2021, "Å leie bolig i Norge", 6 out of 10 persons struggle to find suitable rental housing.

²⁰ Table from Statistics Norway (SSB), Table [09896](#).

²¹ The applications are considered under the Regulation on allocation of municipal housing in Oslo, FOR-2003-05-07-1895, [Forskrift om tildeling av kommunal bolig i Oslo kommune](#).

²² Revold, MK, Sandvik, L. and With, ML (2018). Bolig og boforhold – for befolkningen og utsatte grupper. SSB rapporter 2018/13.

²³ Aaberge R and Stubhaug ME (2018). Formuesulikheten øker. SSB Analyse 2018/18.

- (21) The Norwegian authorities explained that the increase in housing prices leads to greater social inequality because people's socioeconomic background increasingly affects their chances on the housing market.
- (22) The uneven distribution of housing is related to the fact that in cities, such as Oslo, the differences in housing wealth are inherited through generations. Where a person's grandparents lived, and whether they owned property, is significant for indicating a person's housing wealth today.²⁴ The percentage of immigrants or Norwegian-born with immigrant parents who are homeowners, is considerably lower than the average population.²⁵
- (23) The price growth also increases the extent of housing segregation in Oslo,²⁶ as those with less financial means have fewer and fewer options on the housing market and are increasingly concentrated in the most affordable areas of Oslo or end up moving outside the city.

3.1.4.2 Shortage of employment groups in Oslo

- (24) According to the Norwegian authorities, the lack of affordable housing in Oslo is leading to a situation where more and more people must move out of Oslo if they are to afford housing, or housing of a suitable size. Because of the strong home ownership culture in Norway, there is a risk that persons who cannot afford a home in Oslo, migrate to areas where they can afford their own home.
- (25) The Norwegian authorities have illustrated that there has been an increase in migration from Oslo in the recent years. The net migration in Oslo has been moderate to low and the population growth in Oslo has been largely caused by immigration and a birth surplus.²⁷ Oslo's net migration is negative amongst people between 29-39 years old.²⁸ Furthermore, while Oslo has sought to retain families with children in Oslo, a lot of them are moving to neighbouring municipalities, especially families with children under 10 years old.²⁹
- (26) A large proportion of those who migrate out of Oslo are in the working groups i) service and sales workers, ii) technicians and associate professionals and iii) professionals.³⁰ Category iii) include those with more than four years of higher education which includes health care professionals and many teachers, but also other occupations. During the COVID-pandemic, Oslo experienced that the migration of the working group "professionals" increased substantially. While

²⁴ Galster G and Wessel T. (2019). Reproduction of social inequality through housing: A three-generational study from Norway. Soc Sci Res. 78:119-136.

²⁵ In Oslo, the homeownership rate is 58% for immigrants from Africa, Asia and Latin America (including Oceania except Australia and New Zealand and Europe except the EU/EAA), 54% for immigrants from EU/EAA, the USA, New Zealand, Australia and Canada, and 80% for the remaining population. While length of stay affects these numbers, ownership numbers for these groups are still lower than other groups when length of stay is controlled for. In Oslo, the percentage of immigrants or Norwegian-born with immigrant parents have increased from [19 to 34 per cent](#) from 2000 until 2021.

²⁶ Barlindhaug, R. (2017). Boligmarked og flytting – betydning for segregasjon. Ljunggren, Jørn (Red.). Oslo – ulikhetenes by. Kapittel 6. s. 121–144. Oslo: Cappelen Damm Akademisk. See also: [Oslospeilet 2021](#) – 2.

²⁷ [Oslospeilet 2021](#) – 2.

²⁸ [Oslospeilet 2018](#) – 2.

²⁹ [Fridstrøm L \(2021\). Barnefamilier forlater Oslo. TØI.](#)

³⁰ Tønnesen M (2021), Movers from the city in the first year of Covid. Nordic Journal of Urban Studies. 2: 131-147.

home office solutions can provide part of the explanation for why this group experienced increase in migration out of Oslo, also occupational groups such as teachers and health professions also had an increase in migration out of Oslo during the pandemic.³¹

- (27) Moving patterns are determined by a range of factors and preferences, thus making it difficult to determine the specific role of high housing prices. However, the Norwegian authorities have referred to the housing prices contributing to segregation within the city,³² and infer from this that housing prices are also affecting moving patterns within the larger region. As a large portion of those who move from Oslo are relatively young and typically in an establishing phase, it is likely that increasing housing prices is a considerable push factor when deciding to move out of Oslo.
- (28) For people with employment in Oslo, moving creates longer commutes to and from their place of work. The Norwegian authorities have stated that teachers and nurses, have an income that can generally not finance a home in Oslo, cf. paragraph (13), can easily find work outside Oslo at comparable wages. Because important employment groups experience “push and pull”-factors encouraging them to move out of Oslo, Oslo is at the risk of losing a portion of their employment base. In the long term, the developments can lead to a shortage of important occupational groups in Oslo. The measure seeks to counter these developments and to help retain important employment groups in the city.

3.1.4.3 Added pressure on city boundaries

- (29) Since the late 1980s, Oslo has adopted compact city ideals and been relatively successful in preserving agricultural land and densifying urban areas in line with global environment and climate goals. If housing prices keep rising, the Municipality will be at risk of seeing added pressure for expanding existing growth boundaries, rather than densifying existing urban areas.

3.1.5 The need for new policy solutions

- (30) The Municipality has gathered knowledge about market problems and possible countermeasures from reports and research, roundtable discussions,³³ interviews with experts and market operators, as well as from study trips. The early phases of this work are documented in the Municipality’s report “*Kunnskapsgrunnlag for en kommunal boligpolitikk*”.³⁴ According to the Norwegian authorities, knowledge has also been gathered from reports, publicly available data, statistics, and published research.
- (31) The Municipality has decided, on the political level, that there is a need for new solutions that can provide people with house ownership. The Municipality is

³¹ *Ibid.*

³² Barlindhaug, R. (2017). Boligmarked og flytting – betydning for segregasjon. Ljunggren, Jørn (Red.). Oslo – ulikhetenes by. Kapittel 6. s. 121–144. Oslo: Cappelen Damm Akademisk (See also: Oslospeilet 2021 – 2 (https://www.oslo.kommune.no/getfile.php/13430749-1640091442/Tjenester%20og%20tilbud/Politikk%20og%20administrasjon/Statistikk/OsloSpeilet_1_21_web%281%29.pdf).

³³ The Norwegian authorities have informed that in 2018 four roundtable discussions took place at the Oslo City Hall. The discussions were inviting a broad representation of participants (including market operators, international and local researchers, interest organisations, State and local municipal parties). Approximately 15-20 people participated at each roundtable discussion.

³⁴ City of Oslo (2019) [Kunnskapsgrunnlag for en kommunal boligpolitikk](#).

governed through a parliamentary system. While the City Council³⁵ is the highest decision-making body, the City Government³⁶ is the executive body. At the beginning of every four-year parliamentary term, the political parties forming the City Government establish a “political platform”. The political platform sets out the political direction for the term. In the political platform for the period 2019-2023, the City Government stated that it wants to facilitate the provision of affordable owned or rented housing.

- (32) The City Government adopted a decision to address the situation on 23 May 2019.³⁷ The Decision stated that there was a wish to develop new housing policy instrument, that can provide more people the opportunity of obtaining suitable housing. On 27 February 2020,³⁸ the decision was adopted also by the City Council and established the overarching framework for the measure. The objective of the measure is further described in Section 3.2 below.

3.2 Objective

- (33) The objective of the measure is to give more people the opportunity to own their own home in accordance with the Norwegian housing policy. This is ensured by providing affordable housing to the segment of the population that experience difficulties in accessing the housing market and buying a suitable home through the existing market solutions. As such, the measure is meant to supplement the offer by private operators by offering solutions to those that cannot afford the alternative solutions already available on the market
- (34) The objective is to allow the persons qualifying for the measure to build up equity through payments and price increase, which in the longer term should allow them to enter the housing market. The measure therefore aims at countering the challenges described in Section 3.1.2.1 and mitigate the consequences described in Section 3.1.4.
- (35) In order to attain these goals, the measure offers the possibility of buying housing through a sales price lower than the market price, either as a stand-alone alternative, or in combination with alternative purchase arrangements that are described in further detail in Section 3.4 below.

3.3 The beneficiaries

- (36) The measure is administered by the Agency, as further described below in Section 3.7. The measure is operated without a profit objective and the Agency is only intended to be a vehicle for granting benefits to the intended beneficiaries of the measure, which are described in Section 3.6 below.³⁹ Nevertheless, the Agency will be the undertaking receiving the State resources, cf. Section 4 below.

³⁵ In Norwegian “Bystyret”.

³⁶ In Norwegian “Byrådet”.

³⁷ The Municipality of Oslo, City Government, City Government Case No. 145/10 of 23 May 2019, «Ny veier til egen bolig».

³⁸ The Municipality of Oslo, City Council, Case 47 «Nye veier til egen bolig» - City Government Case 14/19 of 23 May 2019, treated by the City Council on 26 February 2020.

³⁹ Subsequently also referred to as “the target group”.

3.4 Main features of the measure

3.4.1 *The three home purchase arrangements under the measure*

- (37) The Municipality will, through the Agency, perform a service where they construct and/or buy homes and sell them to the inhabitants within the target group at a price below market value. As a main rule, the sale will be made for a price corresponding to 80% of the market value. The property value will be set based on an assessment of the housing market in the local area. Real estate brokers and appraisers will help assess the market value for each individual project.
- (38) In specific instances, the prices may be reduced below 80%. Reductions below 80% will be made in instances where housing prices are so high, that the target group is not able to purchase the homes at 80% of market value. The Norwegian authorities have confirmed that it is unlikely that prices will be reduced below 70% of market value. In the following, ESA will refer to the main rule of 80% of market value, even if there are exceptions from this percentage.
- (39) There are three different purchase arrangements covered by the measure. A share of the affordable homes will be sold under (i) a direct sale arrangement. This entails that the property is bought directly at 80% of the estimated market value. The inhabitant purchasing the property then becomes the owner immediately.
- (40) In some instances, buying the property at 80% of market price is not sufficient to address the challenges that part of the target group has in accessing the market. Sales can therefore also be made through two purchase arrangements: (ii) part-ownership and (iii) rent-to-own.
- (41) The (ii) part-ownership arrangement entails that the inhabitant buys a share of the property and rents the remaining part. It is envisaged that the inhabitant will have to own at least a 50% share from start. The Municipality retains ownership of the rented part of the property. Over time, the ownership share can be increased, as the inhabitant will be entitled to buy all or parts of the Municipality's share once a year, in increments of 10 percentage points. The price of the first share will be calculated based on the property as a whole evaluated at 80% of market price. Subsequent shares are based on the price of the first share and adjusted according to a predefined index. If the inhabitant has not purchased the entire home within 10 years, the Municipality has the right to terminate the part-ownership agreement and repurchase the inhabitants share of the home.
- (42) The (iii) rent-to-own arrangement entails that the inhabitant initially rents the property, but with a contractual possibility to buy it before the contract expires. The inhabitant signs a rental contract with a duration of maximum five years, during which the inhabitant will be entitled, but not obliged, to buy the property at any point. The purchase price is set to 80% of market value of the property at the time that the rental contract is entered into. Since the price is not index-linked, any increase in value will fall to the resident and constitute own funds when buying the home. If, after the five-year period, the inhabitant does not buy the home, the contractual relationship is terminated, and the inhabitant will have to move out.
- (43) Applicants for the measure cannot choose the purchasing arrangement of their preference but will be offered a given arrangement according to their need. Part ownership will be available to those inhabitants who have saved enough funds to

finance the down payment requirement of the Lending Regulation that will apply to the price for 50% share of the home (at reduced market value), while rent-to-own will be offered to inhabitants with little available funds to finance the down payment requirement.

- (44) For both (ii) part-ownership and (iii) rent-to-own the inhabitant will sign a rental agreement and pay cost-based rent, either for the property as a whole or for the share owned by the Municipality. The rent will cover the share of debt and joint expenses, administrative costs associated with the model and interest and instalments⁴⁰ on the loan described in Section 3.9.1 below.
- (45) The instalment element of the rent that is paid during the rental period will be deducted from the final purchase price. Therefore, any increase in value built up through payment of instalments and potential price growth will become the equity of the inhabitant. The intention is that this will facilitate the target groups access to the normal housing market.
- (46) While the target group of the measure only to a limited extent qualifies for a start loan as mentioned in paragraph (14), the measure can be combined with start loans in situations where inhabitants within the target group qualify.

3.4.2 The continued life of the measure

- (47) In all the purchasing arrangements described in Section 3.4.1, the Municipality will have a clause in the contract stipulating that the Municipality is entitled, but not obliged, to buy the property back when the inhabitant wishes to sell it.
- (48) The repurchase price is calculated based on the original sales price that the inhabitant paid to the Municipality and adjusted for price change based on a defined index and any upgrades or wear and tear. Charges related to the repurchasing is paid by the inhabitant.
- (49) The properties that are repurchased by the Municipality, will subsequently be sold to new inhabitants applying for the measure. The price will be 80% of the new estimated market value.
- (50) This ensures the continued life of the measure and the accomplishment of its wider objectives. The inhabitants can move on to the housing market, with the equity they have built up while benefitting from the measure. At the same time, the Municipality can sell the property with the same price discount, to a new inhabitant.

3.4.3 Restrictions on letting and subletting

- (51) To ensure that the target group uses the affordable home as a primary residence, the letting and subletting of the home will be limited.
- (52) For inhabitants benefitting from the rent-to-own option, there will be clauses in the rental agreement that restrict the subletting during the rental period. For the part-ownership option, the part-ownership contract and the rental agreement will

⁴⁰ The cost-based rent may sometimes mean that the costs are higher than the rental price in the ordinary market. An option for these cases might be to exclude the instalment element from the rental cost. How much of the instalment element that can be deducted will be decided based upon a standardised evaluation of the inhabitant's ability to pay for the cost-based rent.

contain clauses with restrictions of letting and subletting the apartment. In ownership agreements, the Municipality will aim to ensure that the inhabitants use their home as their primary residence through clauses in the sale and purchase agreement and in regulations for the homes.

- (53) The Municipality will carry out randomised checks to ensure that the clauses are respected.

3.5 Scope of the measure

- (54) The number of properties constructed under the measure during the 20-year long entrustment period is estimated to be 500 to 1 500 homes. On average, this means that 25 to 75 homes will be constructed under the measure every year.

3.6 Qualification and prioritisation criteria

3.6.1 Introduction

- (55) The measure is meant to benefit inhabitants that are not able to buy a home on the housing market or through the alternative solutions, but who have a normal income which allows them to service a loan (“the target group”).
- (56) To ensure that the measure helps attaining its objectives, there will be both qualification and prioritisation criteria for the target group. The Municipality has set the requirements and prioritisation criteria for the purpose of ensuring that the target group is defined in a manner which attains the objectives of the measure.

3.6.2 Qualification criteria

- (57) The measure will have four qualification criteria. The qualification criteria ensure that people, who are likely to gain access to the housing market that operates on regular market terms through their own efforts, are excluded from the measure. The criteria are the following:
- i. The inhabitant must have an income and a level of wealth below certain established thresholds.
 - ii. The inhabitant must not already own a home or have owned a home in the last 3 years.
 - iii. The inhabitant must not previously have been granted housing under the measure.
 - iv. The inhabitant must have lived in Oslo in the last three years.
- (58) Under qualification criterion i), the Municipality has developed a model for calculating the limits on income. The model finds what is a suitable housing category for the applicant based on the number of adults and children in a household and based on the age of the children. This means that the dwelling for which the applicant would qualify under the scheme will depend on the needs of the household and be proportionate to those. For example, a single person household will be in the dwelling category of 30-50 square meters, while a couple with two children will be placed in the dwelling category of 50-70 square metres.
- (59) Subsequently, the model finds the price of such a housing category and sets an income limit related to this. The income limit found through the model is based on affordability, meaning that the model looks at whether the inhabitant can afford less than 20% of the properties within the suitable household category. When

calculating the price of the various housing categories, the model uses price statistics for properties sold in the past year.

- (60) The data used in the model will be updated annually. For all data, except for the data on the income category, the data for the previous year will be available. The dataset for the income level needed for each housing category will be available with a delay of 1,5 years. Within the model, the data will nevertheless be index-adjusted according to the wage growth average of the following year, in order to be compatible with other data.
- (61) The calculation of income needed to buy a housing category considers living expenses, the requirements of the Lending Regulation, the requirements of ability to serve the loan, the lending practices of banks and the number of persons earning money in the household.
- (62) The Norwegian authorities have provided the following table to illustrate the calculation of the income limit, taking into account the abovementioned elements:⁴¹

Household category	Size of home	House price (NOK) 20th percentile	Necessary gross household income (NOK)
Single-person household	30–50	3,445,000	689,000
Couple with no children living at home	40–80	3,896,916	790,660
Couple with one young child (0–5 years)	50–70	3,941,702	917,262
Couple with two young children (0–5 years)	60–80	4,102,000	1,092,833
Couple with three young children (0–5 years)	70–90	4,165,400	1,189,078
Couple with one older child (6–17 years)	60–80	4,102,000	972,366
Couple with two older children (6–17 years)	80–100	4,475,000	1,226,516
Couple with three or more older children (6–17 years)	100–120	5,888,473	1,543,839
Single parent with one young child (0–5 years)	30–70	3,681,390	754,165

⁴¹ The table is based on housing prices for the year 2021 and income data from 2020, index-adjusted according to the wage growth average in 2021. This table would be used to calculate the income limit for the year 2022 (although not applicable).

Single parent with two young children (0–5 years)	60–80	4,102,000	952,439
Single parent with three or more young children (0–5 years)	80–100	4,475,000	1,093,060
Single parent with one older child (6–17 years)	50–70	3,941,702	818,853
Single parent with two older children (6–17 years)	70–90	4,165,400	1,036,398
Single parent with three or more older children (6–17 years)	90–110	5,234,482	1,310,713

- (63) Single persons and single-parent households will represent a high proportion of the qualifying households.
- (64) The calculation of the income limit is seen in connection with a wealth limit for the applicant, and the two elements of the criterion have a combined effect.
- (65) The wealth limit is set with flexibility, at a level which enables the applicant to purchase the home for the discounted price when considering the income and the level of wealth, plus a margin of 5%. The cap will thereby exclude applicants who are able to purchase the home in question above 85% of market value, when taking both income and wealth into consideration.
- (66) The wealth limit is kept flexible to ensure that the measure only benefits households which, due to the size of their income, cannot buy a home in the regular market, while at the same time being flexible enough as to include low-income households who have been diligent in saving. The purpose is also to incentivize saving, as higher wealth can allow people with an even lower income to benefit from the measure. The applicants will be expected to use their wealth as a down payment for the home.
- (67) The second qualification criterion (ii) entails that those inhabitants who already own a home do not qualify for the measure. Inhabitants with children, who are going through a divorce or similar, can be exempted from this requirement.
- (68) The third qualification criterion (iii) ensures that inhabitants who have already been granted a home within the measure cannot apply again.
- (69) The fourth qualification criterion (iv) ensures that the measure targets inhabitants who are residing in the City of Oslo.
- (70) The current political platform of Norway is to maintain settlements in all parts of the country.⁴² The broader political goal is also to incentivise people to both live

⁴² See the [Coalition agreement](#) between the Labour Party and the Centre Party 2021-2025, p. 34 and «St.meld. 5 [Levende lokalsamfunn for fremtiden](#) (2019-2020) – Distriktsmeldingen».

and work in the broader city of Oslo region. Oslo is one of the fastest growing cities in Europe. The criterion iv) seeks to ensure that the measure does not exacerbate rural-urban migration, which poses a challenge to the mentioned policy. Through the targeting of citizens in Oslo, the measure avoids attracting citizens that already live in neighbouring municipalities, and thereby also supports the creation of a broader inter-city network.

- (71) Furthermore, the criterion iv) ensures that the measure attains the purpose of retaining important occupational groups, such as nurses and teachers, who are already employed and living in Oslo and who may otherwise be incentivised to move due to their housing situation, cf. Section 3.1.4.2 above. By setting the criterion to three years, the measure also ensures that the target group is familiar with the local context and intends to live in Oslo in the long term.
- (72) The Norwegian authorities have also explained that there are practical and administrative reasons for setting this criterion. A residency requirement ensures that the Municipality supports their own citizens through the measure, as per the municipal mandate. Furthermore, the requirement ensures an effective administration of the measure, which already is considered to have more qualified applicants than available homes, cf. Section 3.6.2.
- (73) The Norwegian authorities stated that approximately 11.1% of households are below the income limit, while simultaneously having an income high enough to be able to take up a loan. These households cannot afford to buy a suitable home at market price but will be able to afford the same property when it is sold at 80% of market value.
- (74) The Norwegian authorities assume that about 50% of this group already owns their own home. It is therefore estimated that approximately 5.5%, or 16 438 households, will qualify for the measure.
- (75) It is likely that the wealth limitation and residence period will entail a further reduction of these numbers, but the actual effect on the numbers is unknown.

3.6.2.1 Prioritisation criteria and applications

- (76) The Norwegian authorities envisage that there will be more households fulfilling the qualification criteria than the number of homes available under the measure. The Municipality will therefore establish prioritisation criteria, to ensure that there is a fair selection of inhabitants.
- (77) The prioritisation criteria will be set according to the following three principles.
- Most in need, e.g., income, young age⁴³ or employment.
 - Local affiliation, e.g. children in kindergarten or school in the area, and employment.
 - Diversity, e.g., age, family composition and ethnicity.
- (78) The Norwegian authorities explained that the reason why they have set these general principles is that they want to ensure that the specific prioritisation criteria

⁴³ Although age is not envisaged as a basic requirement, the prioritisation of younger age groups means that, in reality, the measure is not aimed at the oldest population groups.

that are adopted for the individual housing projects can be flexible and sensitive to different area characteristics that different neighbourhoods can have. These principles for prioritisation ensure a just and area sensitive method for selecting the inhabitants that will be best suited to promote the objectives of the measure. The flexibility also allows for adjusting the measure, according to local neighbourhood characteristics and needs, as well as changing trends.

3.7 Legal basis

The legal basis of the measure for the measure will be a letter of allocation (the Entrustment Act) from the City Council Department for Urban Development, which describes the content of the SGEI⁴⁴ obligation as well as requirements and expectations. The letter of allocation will contain the information required in the 2012 Framework for State aid in the form of public service compensation (“the SGEI Framework”), see also Section 7.4 below.⁴⁵

3.8 Granting authority and administration of the measure

- (79) As mentioned above, the Agency will be responsible for administering and operating the measure. It is possible that the responsibility will be transferred to another agency within the Municipality after the pilot phase.
- (80) The duties of the Agency encompass: i) project development and construction, ii) economic management, and iii) administration of sale, repurchasing, and rental agreements.
- (81) Concerning duty i), i.e., the project development and construction phase, the Agency will plan, regulate pre-engineer and develop the property projects. This includes purchasing real estate and performing concept and project development. The Agency will conduct tender procedures, pursuant to the rules on public procurement for further engineering and construction. The Agency will also perform post-construction quality control and measure standardisation, analysis and evaluation.
- (82) The Agency may also buy homes in the ordinary housing market and include them in the measure. In these cases, the Agency will pay market price for such homes based on an independent market value assessment.
- (83) As part of duty ii), i.e., the economic management, the Agency will prepare budgets and economic assessments.
- (84) Concerning duty iii), administration consists of sale and repurchase of the properties, as well as the administration of rental agreements. The Agency will perform market price assessments and index market price changes within the different purchase arrangements that require this. They will prepare prospectuses, price lists, advertising for selling the home and diverse types of contracts. They will also be responsible for the actual sale and repurchase. Furthermore, the Agency will perform an evaluation and prioritisation of applicants, allocate homes, and manage the part-ownership and rent-to-own agreements.

⁴⁴ “SGEI” stands for Service of General Economic Interest.

⁴⁵ [Framework for State aid in the form of public service compensation](#), OJ L 161, 13.6.2013, p. 12 (Annex II) and EEA Supplement No 34, 13.6.2013, p. 1.

3.9 Budget and financing

3.9.1 Investment and development costs and revenues

- (85) The Agency will have both investment and development costs associated with the development and building of properties and investment revenues.
- (86) The investment costs will encompass land costs, zoning fees, development expenses, engineering costs, construction costs, loan interest costs, guarantee costs and sales expenses.
- (87) When initiating a new project, the Agency will conduct a preliminary project where they obtain detailed cost estimations. If estimated costs are above NOK 200 million, the project proposal must be quality assured by an external consultant. A quality assurance can be carried out in-house when the estimated cost is lower than NOK 200 million. The preliminary projects must in any event be presented to the City Council, which adopts the final investment decision. When the City Council approves the investment, a loan is made available to the Agency. The Agency can draw on the loan to cover the accrued costs.
- (88) The Agency will have investment revenues from the selling of the homes (“sales revenues”) as well as cost-based rent from the part-ownership and rent-to-own home arrangements (“rent revenues”). The investment revenues shall cover the costs and either fully or partially repay the loan that is made available to the Agency.
- (89) At what time during the duration of the measure the investment revenues will cover the costs, depends on the arrangement. The sales revenues obtained by the direct sale arrangement will be used for direct payments of the loan. Rent revenues income from part-ownership and rent-to-own agreements will, however, cover instalments and interest on the loans connected to the homes, but also joint debt and other joint expenses. As the investment revenues will be delayed for the part-ownership and rent-to-own arrangements, the Agency will have tied-up capital for parts of the investment costs. The capital commitment will be reduced at the latest when the inhabitants in the rent-to-own arrangement buy the home after five years, or when the inhabitants in the part-ownership arrangement buy new shares.
- (90) If the sales revenues and rental income, including what is estimated to be the future revenue from the rent-to-own and part-ownership models, do not cover all the investment and development costs, the residual loan will be transferred from the Agency to the City Treasury to balance the Agency’s account. The fact that the Municipality takes over the loan entails that the Agency receives an *ex-post* coverage of the difference in net development and investment costs and revenue. The Norwegian authorities explained that the Agency will not be able to build up equity or to increase prices, and that they therefore do not have funds to cover any net losses incurred in another manner. Funds to pay interest and instalments on the remaining loan will be set aside annually in the Municipality’s budget.
- (91) If the investment revenues cover the investment and development costs with a surplus, the Agency may retain any surplus up to the swap rate plus one hundred basis points. Any surplus exceeding this amount will be considered overcompensation that must be returned to the Municipality.

- (92) Any coverage of costs will result in future budgets taking the difference in revenues and costs into consideration.
- (93) If a home is no longer needed or suitable for the measure, the Agency will recover the value by selling the home on the market for market price. Any excess proceeds from the sale shall be returned to the Municipality. In the intermediate financing phase, the Agency will make use of municipal loans to finance the repurchase of homes and to take care of associated costs until the homes are sold.

3.9.2 *The administrative revenues and costs*

- (94) The Agency will have administrative expenses related to the day-to-day administration of the measure. The administrative costs will be linked to the performance of administrative tasks before, during and after the construction of the affordable homes. They will also concern improvement and maintenance work under the part-owned and rent-to-own arrangements, which do not fall within the responsibility of the inhabitant. Administration costs will also include, *inter alia*, costs related to obtaining external assistance from consultants, brokers, and appraisers, as well as payroll expenses.
- (95) The administration revenues will consist of fees charged by the entity from the inhabitant to cover the Agency's cost connected to re-purchasing homes from residents and the inhabitants purchase of additional shares.
- (96) The Municipality will calculate expected costs and revenues of the Agency, based on expectations of efficient performance and with efficiency goals outlined. Subsequently, the Municipality will allocate an annual budget frame to the Agency *ex ante*. The Agency will receive a decreasing allocation per home as the number of homes managed will increase. Compensation will be provided in the form of a flat rate, a per-unit amount for households added to the program, as well as a lower amount for existing homes within the portfolio.
- (97) The entity will be expected to operate within the budget, and the compensation will not be adjusted to cover additional costs.
- (98) If the administrative costs are below the budget allocation, the Agency may retain any surplus up to the swap rate plus one hundred basis points. Any surplus exceeding this amount will be considered overcompensation that must be returned to the Municipality.

3.10 Duration

- (99) The Municipality expect the need for affordable homes in Oslo to be a long-term problem. The Municipality has explained that the nature of the measure and the need to amortise costs requires a period of entrustment and initial duration of the measure of 20 years, see also Section 7.5 below.
- (100) The Norwegian authorities explained that the Municipality will carry out an internal evaluation of the measure every eight years. Emphasis will be put on the number of applicants helped through the measure. The evaluation will verify that the measure works towards the intended purpose of providing homes to the target group, and that there is still a sufficient need for the measure. Should market circumstances change, the Municipality will assess if the measure should be discontinued.

4 Presence of State aid

4.1 Introduction

(101) Article 61(1) of the EEA Agreement reads as follows: “Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement.”

(102) The qualification of a measure as State aid within the meaning of this provision requires the following cumulative conditions to be met: (i) the measure must be granted by the State or through State resources; (ii) it must confer an advantage on an undertaking; (iii) favour certain undertakings (selectivity); and (iv) threaten to distort competition and affect trade.

4.2 State resources

(103) The measure must be granted by the State or through State resources. For the purpose of Article 61(1) of the EEA Agreement, the State covers all bodies of State administration, from the central government to the municipal level or the lowest administrative level, as well as public undertakings and bodies.⁴⁶ The measure is granted by the Municipality of Oslo and financed by it. Therefore, the measure is granted through State resources and is imputable to the State.

4.3 Conferring an advantage on an undertaking

(104) The State aid rules apply to “undertakings”. Undertakings are entities engaged in economic activities, regardless of their legal status, the way in which they are financed or whether they make a profit or not.⁴⁷ Any activity consisting in offering goods and/or services on a given market is an economic activity.⁴⁸ The classification of an entity as an undertaking therefore depends on the nature of the activities it carries out. An entity that carries out both economic and non-economic activities is thus to be regarded as an undertaking only with regard to the former.⁴⁹

(105) As mentioned above, the target group of the measure will be the intended beneficiaries. The inhabitants of Oslo are natural persons and do not constitute undertakings. The financial advantage granted to the inhabitants, in the form of buying property at 80% of market price either alone or in combination with the purchase arrangements described above in Section 3.4.1, therefore do not constitute State aid.

(106) The Agency will function as an operator in the market for development and sale of housing. The Agency will, alongside with professionals, offer housing on the market to the inhabitants of Oslo. This is an activity of economic nature, and the Agency therefore qualifies as an undertaking with regard to this activity.

⁴⁶ See ESA’s Guidelines on the notion of State aid, OJ L 342, 21.12.2017, p. 35, and EEA Supplement No 82, 21.12.2017, p. 1, paragraph 48.

⁴⁷ Judgment in *PaMov and Others*, C-180/98, EU:C:2000:428, paragraph 74. Judgment in *MOTOE*, C-49/07, EU:C:2008:376, paragraphs 27 and 28.

⁴⁸ Judgment in *Commission v Italy*, 118/85, EU:C:1987:283, paragraph 7.

⁴⁹ See ESA’s Guidelines on the notion of State aid, OJ L 342, 21.12.2017, p. 35, and EEA Supplement No 82, 21.12.2017, p. 1, paragraph 10.

- (107) The Agency will transfer funds related to the acquisition of homes. A market investor operating on the market for development of housing would require a sufficient return on invested capital, representing a cost for the undertaking receiving the capital. However, in this case the purpose of the measure is a social one, and properties are sold at 80% of the market price, without the Agency having a profit or return objective and without the Municipality receiving a market return on its investments. The transfer of funds and the waiver of return on these funds constitutes an advantage for the Agency.
- (108) Although the aim is to cover investment costs through investment revenues, any gap between such costs and revenues will be compensated *ex post* by the Municipality. Furthermore, there will be net administration costs attached to the measure. These costs will be covered by the Municipality through yearly *ex ante* budget allocations. The coverage of the mentioned costs also represents a financial advantage for the Agency.

4.4 Selectivity

- (109) For a measure to be selective under Article 61(1) of the EEA Agreement, it must favour “certain undertakings or the production of certain goods”. The measure is selective, as it only favours the Agency.

4.5 Distortion of competition and effect on trade

- (110) The measure must be liable to distort competition and to affect trade between the Contracting Parties to the EEA Agreement. According to settled case-law, the mere fact that a measure strengthens the position of an undertaking compared to other undertakings competing in intra-EEA trade is considered sufficient to conclude that the measure is liable to distort competition between undertakings established in other EEA States.⁵⁰ To categorise a measure as State aid, it is not necessary that the aid has a real effect on trade between the Contracting Parties and that competition is actually being distorted; it is sufficient that the aid is liable to affect such trade and distort competition.⁵¹
- (111) As described above in paragraphs (7), (15), (16) and (18), a number of market operators are active in the rental market, the housing market and the market for alternative solutions in Oslo. Some of these operators and/or their owners are active in other EEA States.
- (112) It is likely that the measure will have an effect on the rental market. Furthermore, it cannot be excluded that it will have an effect on the market for developing and sale and purchase of housing, including the market for alternative solutions. This includes a potential effect on the access to plots of land that these operators use in their business. In summary, it cannot be excluded that the measure can make it more difficult for some, or all of the abovementioned operators to operate in the mentioned markets in Oslo or to enter them. In ESA’s view, this can have an effect on trade between the Contracting Parties to the EEA Agreement and distort competition. Hence, that the measure is liable to distort competition and

⁵⁰ Case E-6/98 Norway v ESA [1999] EFTA Ct. Rep. 74, paragraph 59.

⁵¹ See, for example, judgment of 14 January 2015, Eventech, C-518/13, EU:C:2015:9, paragraph 66; judgment of 8 May 2013, Libert and others, C-197/11 and C-203/11, EU:C:2013:288, paragraph 77; and judgment of 4 April 2001, Friulia Venezia Giulia, T-288/97, EU:T:2001:115, paragraph 41.

potentially have an effect on trade is sufficient for the measure to be caught by Article 61 (1) of the EEA Agreement.

4.6 Conclusion

(113) In light of the above, ESA concludes that the measure involves State aid within the meaning of Article 61(1) of the EEA Agreement.

5 Aid scheme

(114) ESA notes that the legal basis of the measure is an act on the basis of which aid is not linked to a specific project and may be awarded to one or several undertakings for an indefinite period of time and/or for an indefinite amount.⁵² The aid is therefore granted on the basis of an aid scheme.

6 Procedural requirements

(115) Pursuant to Article 1(3) of Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ("Protocol 3"): "The EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. [...] The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision."

(116) The Norwegian authorities have notified the measure and have yet to let it enter into force. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

7 Compatibility of the aid

7.1 The legal basis for the compatibility assessment

(117) In derogation from the general prohibition of State aid laid down in Article 61(1) of the EEA Agreement, aid may be declared compatible if it can benefit from one of the derogations enumerated in the Agreement. The Norwegian authorities invoked Article 59(2) of the EEA Agreement as a basis for the compatibility assessment.

(118) Article 59(2) of the EEA Agreement reads as follows: "Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in this Agreement, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Contracting Parties".

(119) In accordance with that provision, ESA may declare compensation for SGEI compatible with the functioning of the EEA Agreement, provided that certain conditions are met.

(120) ESA has laid down the conditions according to which it applies Article 59(2) of the EEA Agreement in a series of instruments. While the Rules on public service compensation, state ownership of enterprises and aid to public enterprises ("the

⁵² See Article 1(e) of Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ("Protocol 3").

SGEI Communication”)⁵³ clarifies key concepts related to State aid for SGEIs, the SGEI Framework specifies the conditions under which State aid in the form of public service compensation can be declared compatible with the functioning of the EEA Agreement

(121) The Norwegian authorities have argued that the measure is compatible with the functioning of the EEA Agreement based on the SGEI Framework. ESA will consequently assess the compatibility of the measure based on Article 59(2) of the EEA Agreement in conjunction with the SGEI Framework.

7.2 Criteria of the SGEI Framework

(122) The compatibility of the aid shall be assessed against the following conditions as provided for by the SGEI Framework:

- a) Existence of a genuine SGEI.
- b) Entrustment act.
- c) Period of entrustment.
- d) Compliance with Directive 2006/111/EC.
- e) Compliance with EEA public procurement rules.
- f) Absence of discrimination.
- g) Properly calculated compensation.
- h) Potential additional requirements that may be necessary to ensure that the development of trade is not affected to an extent contrary to the interests of the of the Contracting Parties.

7.3 Genuine SGEI

7.3.1 Legal background

(123) According to SGEI Framework, “the aid must be granted for a genuine and correctly defined service of general economic interest as referred to in Article 59(2) of the EEA Agreement”.⁵⁴

(124) The concept of SGEI is not defined in the EEA Agreement or in any secondary legislation. The concept of SGEI is an evolving notion that depends, among other things, on the needs of citizens, technological and market developments and social and political preferences in the EFTA State concerned.⁵⁵

(125) ESA recalls that, in the absence of specific EEA rules defining the scope for the existence of an SGEI, EFTA States have a wide margin of discretion in defining a given service as a SGEI and in granting compensation to the service provider.

(126) However, the EFTA State must indicate the reasons why it finds that the service in question, because of its specific nature, deserves to be characterised as an SGEI and to be distinguished from the general economic interest of other economic activities.⁵⁶ Undertakings entrusted with the operation of SGEIs are undertakings

⁵³ The Rules on public service compensation, state ownership of enterprises and aid to public enterprises, [Application of the state aid rules to compensation granted for the provision of services of general economic interest](#), OJ L 161, 13.6.2013, p. 12 and EEA Supplement No 34, 13.6.2013, p. 1.

⁵⁴ SGEI Framework, paragraph 12.

⁵⁵ SGEI Communication, paragraph 45.

⁵⁶ *Merci Convenzionali Porto di Genova*, C-170/90, EU:C:1991:464, paragraph 27 and *Case E-4/97, Norwegian Banking Association v EFTA Surveillance Authority* [1999] EFTA Ct. Rep. 3, paragraph 47.

entrusted with a “particular task”, which in general implies the supply of a service which, if it was considering its own commercial interest, an undertaking would not assume or would not assume to the same extent or under the same conditions.⁵⁷

- (127) For the service to be classified as an SGEI, it must also be addressed to citizens or be in the interest of society as a whole.⁵⁸ The EFTA State must also demonstrate that the SGEI is necessary and proportionate in relation to a real public-service need.⁵⁹ ESA’s competence in this respect is limited to checking whether the EFTA State has made a manifest error when defining the service as an SGEI.⁶⁰
- (128) In the case on the Icelandic Housing Financing Fund (“the HFF Case”), where a measure provided loans at lower interest rates (i.e. at manageable terms), the EFTA Court underlined that the State “must be allowed a margin of discretion with regard to what exactly should be considered affordable terms in relation to such schemes”.⁶¹ The EFTA Court also highlighted that a State is not bound by what other States, in leaving this kind of housing financing completely to the market, implicitly consider acceptable. Furthermore, the EFTA Court expressed that as the measure intended to promote security and equal rights as regarded housing in Iceland, by providing loans on manageable terms, it was a service with an objective that may qualify as a SGEI.
- (129) However, the EFTA Court raised doubts as to whether the measure was proportionally defined and constituted a genuine SGEI, as it did not exclude the financing of more luxurious property or investment property and as it did not target the average citizen in financing his or her own dwelling.
- (130) An additional condition is that it is not appropriate to attach specific public service obligations to an activity which is already provided or can be provided satisfactorily and under conditions, such as price, objective quality characteristics, continuity, and access to the service, consistent with the public interest, as defined by the State, by undertakings operating under normal market conditions.⁶²
- (131) Also, when assessing whether the market is or can deliver solutions, such as the alleged SGEI, ESA’s competences are limited to checking whether the EFTA State has made a manifest error when deciding that the service cannot be provided by the market.⁶³

7.3.2 *Proper consideration of the public service need*

- (132) The SGEI Framework, requires EFTA States to show that they have given proper consideration to the public service needs supported by way of public consultation or other appropriate instruments to take the interests of users and providers into

⁵⁷ SGEI Communication, paragraph 47.

⁵⁸ SGEI Communication, paragraph 50

⁵⁹ Judgment of the General Court of 1 March 2017, *France v Commission*, T-366/13, EU:T:2017:135, paragraph 105

⁶⁰ SGEI Communication, paragraph 46.

⁶¹ Judgment by the EFTA Court of 7 April 2006 in Case E-9/04, *The Bankers’ and Securities’ Dealers Association of Iceland v EFTA Surveillance Authority* [2006] EFTA Ct. Rep. 45, paragraph 74.

⁶² SGEI Communication, paragraph 48.

⁶³ SGEI Communication, paragraph 48.

account.⁶⁴ This allows EFTA States to determine if the service concerned is, or could be, provided by the market, and to increase the transparency of the process of assigning a SGEI. The mentioned process will also help to identify the more precise needs of the users, for example in terms of affordability of a service. For these reasons, the purpose is to provide knowledge of the existing market, with the purpose of defining the public service obligation in an appropriate and proportionate manner.⁶⁵

- (133) The Norwegian authorities explained, as set out in paragraph (30), that while they did not conduct a public consultation, they have given proper consideration to the public service need through the use of other appropriate means.
- (134) ESA notes the explanations by the Norwegian authorities, referred to in paragraph (30), and considers that the measure is the result of an extensive process of gathering information and knowledge. ESA finds that the information provided by the Norwegian authorities confirms that the Municipality has considerable knowledge about the market situation in Oslo and about the needs of the various users in Oslo. Against this background, ESA finds that the Norwegian authorities have given proper consideration to the public service needs through appropriate means.

7.3.3 Service not provided by the market on the same terms

- (135) The Norwegian authorities have argued that the market does not provide and is, unlikely to provide the services provided through the measure.
- (136) To assess the need for the SGEI, ESA must assess if the public service need is already being covered by solutions in the market, or if it could be covered by undertakings operating under normal market conditions.
- (137) The rental market clearly does not provide a service which is suitable to obtain the Norwegian housing policy and the wider objectives of the measure. While ordinary rental agreements seek to provide access to housing as such, the measure seeks to provide access to ownership in line with the Norwegian housing policy.
- (138) The housing market in Oslo is largely inaccessible for the households in the target group. As the prices offered on the market are different to the price level provided by the measure, as indicated in paragraph (37) above, the housing market does not eliminate the need for the SGEI.
- (139) ESA considers that also the alternative solutions offered by the market are largely inaccessible for the target group. Even if the alternative solutions seek to assist the inhabitants of Oslo to enter the housing market, they do not, as a main rule, sell homes for a price below market price. The only alternative solution that offers a price below market price, is the OBOS-solution. However, the reduced market price of the OBOS-solution is not set at the same level as the measure. While persons buying a home under the OBOS-solution must be able to buy the home at 90% of market price, the measure under assessment targets a group of citizens which can buy homes for a maximum of 85% of market price, cf. paragraph (65).

⁶⁴ SGEI Framework, paragraph. 14.

⁶⁵ See as an illustration, the information provided in Commission Staff Working Document, Guide to the application of the European Union rules on State aid, public procurement and the internal market to services of general economic interest, and in particular to social services of general interest, Brussels 29.4.2013, [SWD \(2013\) 53 final/2](#), point 160 and 161.

The market based alternative solutions therefore require a higher level of funds than what is required under the measure.

- (140) ESA notes that it cannot be excluded that inhabitants within the target group may, in certain cases, qualify for the market based alternative solutions. This may happen where the applicant has little funds now but where a bank considers that their financial status may substantially improve in three or five years. For this to materialise, the applicants would have to be in a position for a bank to consider that they could get funds equivalent to 20% of the market value of a property within a three- or five-year timeframe, cf. paragraph (16). Considering the price level of housing in Oslo and the income requirements set by the measure, ESA finds it improbable that there will be any major overlap between applicants that qualify for the measure and the market based alternative solutions. Furthermore, the Norwegian authorities have informed that the application of the prioritisation criteria “most in need” will entail that the few instances of overlap will likely not be prioritised under the scheme. Any potential overlap therefore seems unlikely and would in any event be limited, and therefore negligible.
- (141) Based on the assessment above, ESA concludes that even if the market provides services that are similar to the ones provided by measure, the existing market solutions are not provided on the same conditions as the measure, such as price and access to the service. This leads to the measure being different than existing market solutions in content and access. Furthermore, due to the level of reduction of market price that is provided by the measure, and the fact that the market generally seeks to attain profits, it seems highly unlikely that the market on its own will provide solutions corresponding to the measure in the future.
- (142) Against this background, ESA finds that the Norwegian authorities have not made a manifest error when considering that the service provided by the Agency will not be provided by normal market operators and that the public need is not covered by the existing market.

7.3.4 Definition of the SGEI in light of the public service need

- (143) The Norwegian authorities have argued that the provision of affordable homes to the target group is a service of general economic interest.
- (144) The service consists of the building of homes, and/or the purchasing of homes on the market in Oslo, and the later sales of these homes to the target group for a price below market price, either alone or in combination with the purchase arrangements described in Section 3.4.1.
- (145) To assess if there is a genuine SGEI, ESA must assess if there is a public need, based on the needs of the citizens, technological and market developments and social political preferences in the EFTA State concerned, that justify the public service mission. The service must also be distinguished from the general economic interest of other economic activities. ESA must also consider that the service is for the citizens or is in the interest of society as a whole.
- (146) ESA finds that in this specific case the Norwegian authorities have provided sufficient arguments as to why there is a public service need for the measure and why the service under the measure is a SGEI that must be distinguished from other economic activities.

- (147) Regarding this point, ESA refers to the tradition of the Norwegian housing policy, and the social and political preference that the Norwegian authorities have in the area of housing, cf. Section 3.1.1. The EFTA Court has recognised that States cannot be precluded from taking objectives pertaining to their national policy into account when defining services of general economic interest.⁶⁶ The HFF case also illustrated that the EFTA Court has considered a measure seeking to promote housing in Iceland and fostering private ownership as a service that could qualify as a SGEI.⁶⁷
- (148) Because of the difficulties persons with a normal income have in obtaining home ownership in Oslo, where purchasing of a home for many is inaccessible due to the prices of the housing market, the housing market is creating a situation which is not in line with the national policy. The measure seeks to counter this situation and helping citizens obtain house ownership in line with the national policy.
- (149) In addition to helping the average citizen with obtaining affordable housing, the measure seeks to fulfil wider societal objectives and public needs. Reference is in this regard made to fighting social inequality and housing segregation, ensuring the presence of important occupational groups within the city, and safeguarding the future sustainability of Oslo with regard to added pressure of expanding existing city growth boundaries.
- (150) In ESA's view all the above-mentioned objectives are valid public policy objectives that can justify that there is a public service need, and that go beyond the normal economic interest of operators in the housing sector.
- (151) ESA also finds that the measure is set up and targeted in a manner which does not go beyond what is necessary to obtain the objective of the measure or which is disproportionate to the public service need. In particular, ESA points to the target group being clearly defined and delimited to households that do not have access to the housing market or the market for alternative solutions.
- (152) Both the qualification and prioritisation criteria are set in a manner which seeks to ensure that only citizens that need the measure to afford housing are targeted. For example, housing categories under the measure are provided based on the actual and specific need of the household and the housing offered under the measure appears modest, cf. paragraph (58), (59) and (62).⁶⁸ Furthermore, the purchasing arrangements rent-to-own and part-ownership are allocated to applicants that have a social need for these specific solutions, meaning that they cannot afford direct purchase, cf. paragraph (43). The prioritisation criteria are also set in a manner which ensures that the wider societal goals of the measure are attained, for example by ensuring prioritisation due to local employment or ethnicity.
- (153) Based on the foregoing, ESA does not find that Norway has made a manifest error, when considering that the service provided by the measure is

⁶⁶ See *supra* judgment by the [EFTA Court in Case E-4/97](#), paragraph 47, making reference to judgment in *France v Commission*, C-202/88, EU:C:1991:120, at paragraph 12 and judgment in *Commission v France*, C-159/94, EU:C:1997:501, at paragraph 56.

⁶⁷ See *supra* judgment of the EFTA Court of 7 April 2006 in Case E-9/04, paragraph 68.

⁶⁸ Concerning the support for modest housing as an SGEI, see *supra* judgment by the [EFTA Court in Case E-4/97](#), paragraphs 49 and 50.

distinguishable from the economic interest of other economic activities and that it constitutes a genuine SGEI.

7.3.5 Conclusion

(154) Consequently, on the basis of the considerations presented above, ESA concludes that the aid is granted to a genuine and correctly defined service of general economic interest, as referred to in Article 59(2) of the EEA Agreement.

7.4 Entrustment act

(155) The responsibility for the operation of the SGEI must be entrusted to the undertaking concerned by way of one or more acts, the form of which may be determined by each EFTA State.⁶⁹

(156) The entrustment act must include a) the content and duration of the public service obligations, b) the undertaking and, where applicable, the territory concerned, c) the nature of any exclusive or special rights assigned to the undertaking by the granting authority, d) the description of the compensation mechanism and the parameters for calculating, monitoring, and reviewing the compensation, and e) the arrangements for avoiding and recovering any overcompensation.

(157) As described in Section 3.7, the Norwegian authorities have informed ESA that the establishment and further administration and development of the affordable The Municipality has confirmed that the act will comply with the obligations outlined in paragraph (156). The Norwegian authorities have confirmed that the conditions will be complied with and have committed to submit the entrustment act to ESA.

(158) ESA consequently concludes that the service will be entrusted to the undertaking concerned in an act and after the submission of the Entrustment Act to ESA, ESA will verify that all the necessary information and conditions to comply with the SGEI Framework are met.

7.5 Duration of the period of entrustment

(159) According to the SGEI Framework, the “duration of the period of entrustment should be justified by reference to objective criteria such as the need to amortise non-transferable fixed assets”.⁷⁰ The SGEI Framework also sets out that the duration should in principle not exceed this period.

(160) The Norwegian authorities explained that they anticipate that housing prices in Oslo will continue to be high. Because they foresee those challenges associated with home ownership will persist, they are of the view that there will be a permanent need for the measure.

(161) The Norwegian authorities have, however, notified the measure for a period of 20 years. The Norwegian authorities argue that this period of entrustment is justified.

(162) Firstly, the Norwegian authorities referred to the fact that the Municipality will have to take out a loan to finance the property investments, and that they anticipate that the loan will be amortised within a 10-year period from the point in time when the sale is made or when the rental agreements are entered into.

⁶⁹ SGEI Framework, paragraph 15.

⁷⁰ SGEI Framework, paragraph 17.

- (163) Secondly, the Norwegian authorities have informed that the entrustment cannot in their view be limited to the time necessary to amortise the costs as this would not take into account the time needed to plan each project and to carry out the construction. In this regard, the Norwegian authorities stated that they will complete three pilot projects. If they are proven successful, the pilot projects will be followed by three further projects.
- (164) Against this background, the total completion period is set to be 2035/2036 for the pilot project, and 2039/2040 for the following projects based on the following phases:
- (i) A planning phase running from the initial project proposal and until an investment decision is made, taking approximately three years.
 - (ii) A construction phase, running from the start of construction until the homes are ready to be moved into, taking approximately two years.
 - (iii) A contract period, during which the Municipality's loan to finance the investment is expected to be amortised. The contract period is ten years if based on the maximum contract period for part-ownership homes.
- (165) When estimating the total period, the Norwegian authorities also have considered a risk of there being certain delays in the project.
- (166) ESA notes that the duration of ten years for the contract between the Agency and the beneficiaries is necessary in order for the Municipality to be able to amortise costs. ESA also notes that the part-ownership arrangement allows the inhabitant to live in the apartment for ten years, while the rent-to-own arrangement sets up a contractual period of five years, and that the duration of the scheme should cover these contract arrangements. The length of these contracts is also necessary to ensure that the inhabitants of an affordable home will accumulate enough savings to be able to obtain a home also outside the measure. The length of the different purchasing options therefore in turn contributes to attain the wider objectives of the scheme.
- (167) ESA also notes that in order to construct the homes and commence the contract period, a planning and a construction phase is necessary. Such planning and construction will necessarily take some time and there are risks of delay.
- (168) In addition, ESA points to the nature of the measure being that homes that have been sold to initial applicants, will be resold to new applicants, for the benefit of new inhabitants within the target group. To a certain extent, this continued function also justifies the duration of the measure.
- (169) Against this background, ESA finds that the duration of the period of entrustment is justified by reference to objective criteria and that consequently the entrustment period is in accordance with the SGEI Framework.

7.6 Compliance with Directive 2006/111/EC

- (170) According to the SGEI Framework, "aid will be considered compatible with the internal market on the basis of Article 59(2) of the EEA Agreement only where the undertaking complies, where applicable, with Directive 2006/111/EC on the

transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings”.⁷¹

(171) Under Article 2(d) of Directive 2006/111/EC, any undertaking that is entrusted with the operation of an SGEI pursuant to Article 59(2) of the EEA Agreement, that receives public service compensation in any form whatsoever in relation to such service and that carries out other activities, is an undertaking required to maintain separate accounts.

(172) The Norwegian authorities have confirmed that the Agency entrusted with the operation of the measure will adhere to the rules of Directive 2006/111/EC. In particular, the ESA notes that the Norwegian authorities have confirmed, that the Agency will keep separate accounts, see also paragraph (186).

7.7 Compliance with EU Public Procurement Rules

(173) According to the SGEI Framework, “[a]id will be considered compatible with the internal market on the basis of Article 59(2) of the EEA Agreement only where the responsible authority, when entrusting the provision of the service to the undertaking in question, has complied or commits to comply with the applicable EEA rules in the area of public procurement. This includes any requirements of transparency, equal treatment and non-discrimination resulting directly from the EEA Agreement and, where applicable, secondary EEA law. Aid that does not comply with such rules and requirements is considered to affect the development of trade to an extent that would be contrary to the interests of the EEA within the meaning of Article 59(2) of the EEA Agreement”.⁷²

(174) In this case the Municipality has entrusted the provision of the SGEI to the Agency, which is the same legal person as the Municipality. The public procurement rules do not apply when no public contract is entered into, as the services are provided in-house.

(175) For the sake of completeness, ESA notes that all contracts with external providers, both with regards to construction and administrative costs, will be entered into in accordance with the public procurement rules.

(176) ESA therefore concludes that the measure complies with EEA rules in the area of public procurement.

7.8 Absence of discrimination

(177) The SGEI Framework sets out that, “[w]here an authority assigns the provision of the same SGEI to several undertakings, the compensation should be calculated on the basis of the same method in respect of each undertaking”.⁷³

(178) ESA notes that the SGEI entrusted to the Agency is the only one assigned and no other SGEI is entrusted to other or “several undertakings”.⁷⁴ Therefore, no discriminatory compensation between different SGEI providers, within the meaning of paragraph 20 of the SGEI Framework, can arise.

⁷¹ SGEI Framework, paragraph 18.

⁷² SGEI Framework, paragraph 19.

⁷³ SGEI Framework, paragraph 20.

⁷⁴ See a similar consideration in [Commission Decision SA.56448 \(2021/NN\) – Belgium Prolongation of bpost’s concessions over 2021 and 2022](#), para 88 and 89.

7.9 Calculation of compensation

7.9.1 Coverage of net cost

- (179) According to the SGEI Framework, "[t]he amount of compensation must not exceed what is necessary to cover the net cost of discharging the public service obligations, including a reasonable profit."⁷⁵
- (180) The amount can be established on the basis of either the expected costs and revenues, or the costs and revenues actually incurred, or a combination of the two, depending on the efficiency incentives that the EFTA State wishes to provide. The SGEI Framework furthermore provides indications on how costs and revenues should be calculated and what should be considered a reasonable profit.
- (181) Under the cost allocation methodology, the net cost necessary to discharge the public service obligations can be calculated as the difference between the costs and revenues for a designated provider of fulfilling the public service obligation, as specified and estimated in the entrustment act.⁷⁶ The costs to be taken into account include all costs necessary to operate the SGEI.⁷⁷ The revenue to be taken into account must include at least the entire revenue earned from the SGEI, as specified in the entrustment act.⁷⁸
- (182) When the undertaking also carries out activities falling outside the scope of the SGEI, the costs to be taken into consideration may cover all the direct costs necessary to discharge the public service obligations and an appropriate contribution to the indirect costs common to both the SGEI and other activities. The costs linked to any activities outside the scope of the SGEI must include all the direct costs and an appropriate contribution to the common costs.⁷⁹ The accounts must show separately the costs and revenues associated with the SGEI and those of the other services.⁸⁰
- (183) The Norwegian authorities have informed ESA that they will use the cost allocation methodology to determine the net cost necessary to provide the SGEI. The Norwegian authorities have confirmed that the compensation will be calculated based on the difference between the costs and revenues that the Agency incurs, in accordance with the rules outlined above. Norwegian authorities have informed ESA that the amount of compensation that the Agency receives will not exceed what is necessary to cover the net cost of discharging the SGEI, including a reasonable profit, see also Section 7.9.2.
- (184) For the administrative amount, the costs will be established on the basis of expected costs and revenues. For the investment and development costs the amount will be established based on costs and revenues actually incurred.
- (185) The Norwegian authorities have confirmed that when calculating the costs, a proportionate allocation of the indirect costs common to the SGEI and the other

⁷⁵ SGEI Framework, paragraph 21.

⁷⁶ SGEI Framework, paragraph 28.

⁷⁷ SGEI Framework, paragraph 29.

⁷⁸ SGEI Framework, paragraph 32.

⁷⁹ SGEI Framework, paragraph 31.

⁸⁰ SGEI Framework, paragraph 41.

activities of the Agency will be taken into account, alongside with the direct costs that are associated with the measure.

- (186) The Norwegian authorities have confirmed that the Agency keeps separate internal accounts for the measure and other activities, showing separately the costs and revenues associated with the SGEI and those of the other activities, and that indirect and common costs will be allocated in accordance with generally accepted cost accounting principles.

7.9.2 *No overcompensation*

- (187) The Agency will not receive overcompensation, as the Norwegian authorities have confirmed that the Agency will not receive a compensation in excess of what is necessary to cover the net cost of discharging the public service obligation, including a reasonable profit. The Agency will only get to retain a surplus generated up to the swap rate plus 100 basis points for both investment and development costs and for administrative costs. This amount is classified as reasonable in all events by the SGEI Framework and therefore does not constitute overcompensation.⁸¹
- (188) As any surplus will be considered an overcompensation that must be returned to the Municipality, and regular checks will be carried out in intervals of two years,⁸² ESA finds that no overcompensation will be granted.

7.9.3 *Efficiency incentives*

- (189) In devising the method of compensation, EFTA States must introduce incentives for the efficient provision of SGEIs of a high standard, unless they can duly justify that it is not feasible or appropriate to do so.⁸³ Efficiency incentives can be designed in different ways to best suit the specificity of each case or each sector.
- (190) The Norwegian authorities have informed ESA that the Municipality will introduce incentives to ensure the efficient provision of the measure. When evaluating home purchase financing models, the mix of financing options that provide the most favourable net cost to the Municipality should be given preference, as this will enable the measure to serve more applicants with the same funds.
- (191) The Agency will operate without a profit requirement. However, to provide efficiency incentives, the Agency can retain and reinvest a surplus, if it should manage to keep development and investments costs below the revenues from the sale of homes and rental income, or the administrative costs below the allocated budget. Returns which exceed a reasonable level, capped at a maximum of the swap rate plus a premium of 100 basis points, will be considered overcompensation and must be returned.
- (192) ESA considers that by introducing these incentives for efficient provision of the SGEI, they have introduced efficiency incentives that are compliant with the conditions of the SGEI Framework.

⁸¹ SGEI Framework, paragraph 36.

⁸² SGEI Framework, paragraph 49 states that this should normally be done in intervals of two years when no public procurement procedure is carried out.

⁸³ SGEI Framework, paragraph 39.

7.10 Assessment of whether there is a need for additional requirements to ensure that the development of trade is not affected to an extent contrary to the interests of the Contracting Parties

7.10.1 What are distortions of competition contrary to the interests of the Contracting Parties?

- (193) When having assessed the compatibility conditions of the SGEI Framework, the compliance with those requirements is usually sufficient to ensure that the aid does not distort competition in a way that is contrary to the interests of the Contracting Parties. However, the SGEI Framework states that "in some exceptional circumstances, serious competition distortions in the internal market could remain unaddressed and the aid could affect trade to such an extent as would be contrary to the interest of the EEA."⁸⁴
- (194) In such exceptional circumstances, ESA may require additional conditions or request additional commitments from the EFTA States to mitigate serious distortions of competition.⁸⁵ ESA will restrict its attention to those distortions where the aid has significant adverse effects on other EEA States and the functioning of the internal market, for example, because they deny undertakings in important sectors of the economy the possibility to achieve the scale of operations necessary to operate efficiently.⁸⁶
- (195) ESA finds that the situations described in paragraphs 55 and 57–59 of the SGEI Framework are not relevant in the case at hand. As for paragraph 55, the duration of the measure is justified by objective criteria cf. Section 7.5, and it does not bundle a series of tasks. Furthermore, the measure is not connected with a special or exclusive right as described in paragraph 57, and the aid is not allowing the financing or creation or use of an infrastructure that is not replicable and that creates market foreclosure, as described in paragraph 58. Lastly, the distortions of competition are not a consequence of the entrustment hindering the effective implementation or enforcement of EEA legislation aimed at safeguarding the proper functioning of the internal market, as described in paragraph 59.
- (196) The SGEI Framework paragraph 56 sets out that one situation "in which a more detailed assessment may be necessary is where an EFTA State entrusts a public service provider, without a competitive selection procedure, with the task of providing an SGEI in a non-reserved market where very similar services are already being provided or can be expected to be provided in the near future in the absence of the SGEI. Those adverse effects on the development of trade may be more pronounced where the SGEI is to be offered at a tariff below the costs of any actual or potential provider, so as to cause market foreclosure".⁸⁷
- (197) In such cases, ESA "while fully respecting the EFTA States wide margin of discretion to define the SGEI, may therefore require amendments, for instance in the allocation of the aid, where it can reasonably show that it would be possible to provide the same SGEI at equivalent conditions for the users, in a less distortive manner and at a lower cost for the State".⁸⁸

⁸⁴ SGEI Framework, paragraph 52.

⁸⁵ SGEI Framework, paragraph 53.

⁸⁶ SGEI Framework, paragraph 54.

⁸⁷ SGEI Framework, paragraph 56.

⁸⁸ *Ibid.*

7.10.2 The effects on existing markets are not contrary to the interests of the EEA

- (198) When determining the actual effects on competition, ESA finds it natural to make a distinction between the rental market, the housing market and the market for alternative solutions. ESA has also considered the impact on the financial sector.
- (199) ESA notes that the measure does not change the conditions under which financial institutions provide loans. However, because the beneficiaries can purchase homes for 80% of market value, there will in principle be more people taking up loans. However, that effect is limited and cannot in ESA's view be considered contrary to the interests of the Contracting Parties.
- (200) As a starting point for the assessment on the effect on the housing market, ESA notes that the scope of the measure is limited. This concerns both the number of homes provided and the geographical scope. There is a sparse number of homes provided, as the measure seeks to provide 25 to 75 apartments per year, over a period of 20 years. The measure is also only relevant for Oslo, thereby having no, or very limited effect, in any other market in Norway.
- (201) As for the rental market, the measure removes a share of people from the rental market, as it is reasonable to assume that one of the alternatives for the target group would be to rent a home. ESA notes, however, that it is also likely that some people in the target group would leave Oslo to obtain housing ownership elsewhere cf. Section 3.1.4.2. The rental market in Oslo today is approximately 110 000 rental apartments and is already struggling to meet demand. Considering this, and the rather limited scope of the measure in terms of the number of homes, it is implausible that the measure can create serious competition distortions that are contrary to the interests of the Contracting Parties in the rental market.
- (202) Concerning the housing market, the target group does not qualify for obtaining housing in that market, because they cannot purchase a property for market price. The potential positive effect on that market is that some of the inhabitants in the target group, might be able to qualify for entering this market at a later stage due to the measure. The potential negative effect on the housing market or construction sector, consists of possible increased competition in access to plots of land or in access to operators that can carry out construction. As mentioned above, the number of homes is already limited, but because the homes will be built as apartment buildings, the number of projects will be even more limited than the number of homes. The effect that the measure will have on the ordinary housing market, including on the market's access to resources, must therefore be considered negligible, and not to an extent contrary to the interests of the Contracting Parties.
- (203) Lastly, concerning the market for alternative housing solutions, the measure can be considered to be very similar to that market and to have the potential effect of removing persons from that market. However, as already described in Section 7.3.3, there are significant differences with regard to content and qualified applicants. The most significant difference is that all home purchases under the measure entail a reduced purchasing price. Because the measure is not targeted towards inhabitants that can obtain housing in the market for alternative solutions, the effects on this market must be considered limited. As ESA has already explained in paragraph (139), an overlap is rather unlikely in practice. In any event, ESA finds that the measure has a scope, which entails that there is no risk

for significant adverse effects on other EEA States and the functioning of the EEA Agreement, even if a certain overlap would exist.

- (204) Considering the above, ESA does not find that the aid will have such significant effects on the market that there is a need for additional requirements to ensure that the development of trade is not affected to an extent contrary to the interests of the Contracting Parties.

7.11 Conclusions on the compatibility of the SGEI entrusted to the Municipal unit

- (205) Considering the foregoing observations, ESA concludes that the compensation granted for the SGEI entrusted to be compatible with the functioning of the EEA Agreement on the basis of Article 59(2) of the EEA Agreement.

8 Transparency and reporting

- (206) The SGEI Framework⁸⁹ sets out transparency conditions. It follows that for each SGEI compensation falling within the scope of the SGEI Framework, the EFTA State concerned must publish: (i) the result of the public consultation or other appropriate instruments referred to in paragraph 14, (ii) the content and the duration of the public service obligations, (iii) the undertaking and, where applicable, the territory concerned, as well as (iv) the amounts of aid granted to the undertaking on the yearly basis.
- (207) The Norwegian authorities have confirmed that the information mentioned will be published on the webpages of the Municipality. The relevant information will also be published in the State aid register.
- (208) EFTA States shall report to ESA on the compliance with the SGEI Framework every two years.⁹⁰ The SGEI Framework sets several obligations as to what needs to be included in this report. The Norwegian authorities have confirmed that they will act in accordance with the reporting and evaluation requirements pursuant to Section 3 of the SGEI Framework.

9 Conclusion

- (209) On the basis of the foregoing assessment, ESA considers that the measure constitutes State aid with the meaning of Article 61(1) of the EEA Agreement. Since ESA has no doubts that this aid is compatible with the functioning of the EEA Agreement, pursuant to its Article 59(2), it has no objections to the implementation of the measure.
- (210) The Norwegian authorities have confirmed that the notification does not contain any business secrets or other confidential information that should not be published.

For the EFTA Surveillance Authority,

⁸⁹ SGEI Framework, paragraph 60.

⁹⁰ SGEI Framework, paragraphs 62 and 63.

For Arne Røksund
President
Responsible College Member

Stefan Barriga
College Member

Árni Páll Árnason
College Member

Melpo-Menie Joséphidès
Countersigning as Director,
Legal and Executive Affairs

This document has been electronically authenticated by Stefan Barriga, Melpo-Menie Josephides.