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Ministry of Trade, Industry and Fisheries  
Postboks 8090 Dep  
Kongens gate 8  
0032 Oslo  
Norway

Dear Sir or Madam,

**Subject: Letter of formal notice to Norway concerning an own-initiative case regarding the Point of Single Contact in Norway**

## 1 Introduction and correspondence

By letter dated 18 February 2020 (Doc No 1114716), the Authority informed the Norwegian Government that it had opened an own initiative case concerning the Point of Single Contact (PSC) in Norway. In that letter the Authority requested information on various issues related to the performance of the PSC and any measures taken to follow up on the conclusions and recommendations addressed to Norway by the European Commission in a report from 2015 (“2015 Report from the European Commission”) on the PSC performance in the EEA.<sup>1</sup> This included questions on the e-completion of procedures and use of electronic means of identification and signature, availability of payment by foreign payment means, structure of information, and various aspects related to the usability and quality of the services under Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market (the “eIDAS Regulation”).<sup>2</sup>

By letter dated 17 March 2020 (Your ref. 20/1086-8; Doc No 1121857), the Norwegian Government replied to the request for information, stating in essence that the Norwegian PSC had been improved significantly by 2019. The Services Directive, the Professional Qualifications Directive, and the eIDAS Regulation<sup>3</sup> are the responsibilities of the Norwegian Ministry of Trade, Industry and Fisheries, the Norwegian Ministry of Education and Research and the Norwegian Ministry of Local Government and Modernisation respectively. *Altinn*, the platform for digital public services in Norway, hosts the Norwegian PSC. Procedures and information are generally available on that site, but the implementation is an ongoing project.<sup>4</sup>

By letter dated 29 January 2021 (Doc No 1175722), the Authority requested an update in relation to the set-up of the PSC. Norway replied by letter dated 25 February 2021 (Your ref. 20/1086-15; Doc No 1184182) addressing the questions concerning application of the

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<sup>1</sup> The reports were published on the website of the European Commission at the time but are currently not anymore publicly available.

<sup>2</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, OJ L 257, 28.8.2014, p. 73; incorporated at point 5l of Annex XI to the EEA Agreement by Joint Committee Decision No 22/2018 of 9.2.2018.

<sup>3</sup> See references in the Section on Relevant EEA law below.

<sup>4</sup> The detailed information submitted by Norway in its letters will be presented at the relevant individual issues addressed below to avoid repetition.

eIDAS Regulation and electronic procedures, but also adding that the implementation process is ongoing.

By a letter date 22 December 2022 (Doc No 1332242), the Authority requested further up-dates on the PSC developments concerning the issues related to the eIDAS Regulation in Norway. After having been granted an extension of deadline, the Norwegian Government replied to that letter by a letter dated 17 March 2023 (Your ref. 20/1986-39; Doc No 1362041).

## 2 Relevant national law

In Norway, the Services Directive<sup>5</sup> is transposed in the Services Act (*Lov 19. juni. 2009 nr 103 om tjenestevirksomhet*) and the Services Regulation (*Forskrift 2009-12-18 nr 1644 om tjenestevirksomhet og administrativt samarbeid mellom myndigheter*). Article 6 and 8 of the Services Directive are transposed in §6(1) to (3) of the Service Act and §4 of the Services Regulation. Article 7 of the Services Directive is transposed in §7 of the Service Act.

As to the Directive 2005/36/EC<sup>6</sup> as amended by Directive 2013/55/EU<sup>7</sup>, (hereafter the “Professional Qualifications Directive” or the “PQD”)<sup>8</sup> the notification of full implementation of Norway of Directive 2013/55/EU (Doc No 1105622) did not have a table of correspondence enclosed. The Authority is therefore not in possession of any information whether Articles 57 and 57a of the PQD have been transposed into national law in Norway.<sup>9</sup> The complete implementation of Directive 2005/36/EC, as amended by Directive 2013/55, in Norway is in any event currently scrutinised by the Authority in a separate conformity assessment case (Case No 89499).

The eIDAS Regulation is incorporated in Norway by the Act on electronic trust services (*Lov 15. juni 2018 nr. 44 om gjennomføring av EUs forordning om elektronisk identifikasjon og tillitstjenester for elektroniske transaksjoner I det indre marked (lov om elektroniske tillitstjenester)*).

## 3 Relevant EEA law

### 3.1 Directives 2006/123/EC and 2005/36/EC

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<sup>5</sup> Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 *on services in the internal market*, OJ L 376, 27.12.2006, p. 36; incorporated at point 1 of Annex X to the EEA Agreement by Joint Committee Decision No 45/2009 of 9.6.2009.

<sup>6</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 *on the recognition of professional qualifications*, OJ L 255, 30.09.2005, p. 22, incorporated at point 1 of Annex VII to the EEA Agreement by Joint Committee Decision 142/2007 of 26.10.2007.

<sup>7</sup> Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC *on the recognition of professional qualifications* and Regulation (EU) No 1024/2012 *on administrative cooperation through the Internal Market Information System* (‘the IMI Regulation’), OJ L 354, 28.12.2013, p. 132, incorporated at point 1, indent 9, of Annex VII to the EEA Agreement by Joint Committee Decision 94/2017 of 5.5.2017.

<sup>8</sup> For the ease of reading, the EFTA Surveillance Authority will, in the following, refer to the Professional Qualifications Directive to mean the text of Directive 2005/36/EC as amended by Directive 2013/55/EU.

<sup>9</sup> The complete implementation of Directive 2005/36/EC, as amended by Directive 2013/55, in Norway is currently scrutinised by the Authority in a separate conformity assessment case (Case No 89499).

The Services Directive establishes a general legal framework aimed at facilitating the exercise of the freedom of establishment for service providers and the free movement of services, while maintaining a high quality of services.<sup>10</sup>

The PQD establishes rules according to which an EEA State, which makes access to or pursuit of a regulated profession in its territory contingent upon possession of a specific professional qualification shall recognise professional qualifications obtained in another EEA State and which allow the holder of the said qualifications to access and pursue the same profession there.

The Services Directive lays down provisions concerning the right of service providers (as well as recipients) to information (Article 7) and the right of service providers to complete procedures by electronic means (Articles 6 and 8). According to those provisions, both information and e-procedures are to be made accessible and available to service providers through a point of single contact (PSC).

The service providers should be able, online and through the points of single contact, in relation to their service activities (both as established or establishing providers), domestically<sup>11</sup> and cross-border, as well as providing or seeking to provide cross-border services temporarily and occasionally, to:

- Obtain all relevant information on applicable rules for access to and exercise of service activities,
- Complete all procedures and formalities needed for access to and exercise of service activities,
- Receive assistance from competent authorities, consisting in information on the way in which the specific requirements are generally interpreted and applied.

The Professional Qualifications Directive, notably since the last modification by Directive 2013/55/EU, clarifies in its Articles 57 and 57a that the rules of Articles 6, 7 and 8 of the Services Directive already cover information requirements and electronic procedures concerning the recognition of professional qualifications. It complements the Services Directive by requiring a number of specific information which EEA States have to provide and it extends the obligations of the Services Directive to professions not covered by the Services Directive, like health professions, as well as to recognition procedures for employees.

Together those two legal instruments therefore cover all information requirements and procedures necessary for access to and exercise of service activities in their scope, whether they concern (regulated) service activities by self-employed or the exercise of a regulated profession by employees.

### **3.2. Regulation EU 910/2014**

While implementing the PSC, EEA States may require electronic identification and or electronic signatures of PSC users in so far as, in line with the provisions of the Services Directive and the Professional Qualifications Directive mentioned above, such requirement does not impede or severely restrict, *de iure* or *de facto*, recourse to the PSC by users from other EEA States. The eIDAS Regulation governs certain means of electronic identification and, in relation to those, its Article 6 requires EEA States to recognise those electronic identification means issued in other EEA States for access to a service provided by a public sector body online, such as the PSC. The eIDAS

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<sup>10</sup> See Article 1 of the Services Directive.

<sup>11</sup> On the application of provisions of the Services Directive regarding establishment to purely national situations see CJEU judgment of 30 January 2018 in joined cases C-360/15 and C-31/16 (Visser), of 30 January 2018 (point 3 of the operative part) – in those specific court cases regarding Chapter III of the Services Directive.

Regulation also governs electronic signatures; its Articles 25(3) and 27 require EEA States to recognise same security-level electronic signatures from other EEA States<sup>12</sup> for use in an online service, such as the PSC, offered by or on behalf of a public body, and not to request higher security level than the qualified electronic signature.

## 4 The Authority's assessment

### 4.1. Organisation of the PSC in Norway

The Norwegian Government has stated in its correspondence of 17 March 2020 that **Altinn**, the platform for digital public services in Norway, currently hosts the Norwegian PSC.<sup>13</sup> As pointed out by the Norwegian Government in all its correspondence, the work on the PSC, in particular, in relation to its digital aspects (i.e. accessing procedures with a non-Norwegian eID) is ongoing. It is reminded at the outset that Directive 2013/55 introducing the PSCs into the Professional Qualifications Directive has entered into force in the EEA on 1 January 2019, thus the creation of the PSC and the related digital accessibility should have been finalised in Norway at the latest by that date.

The *Altinn* platform contains references to (application) “forms” that are relevant for obtaining an authorisation to provide certain services or have foreign professional qualifications recognised. When entering the PSC homepage via the EUGO web-link,<sup>14</sup> which serves as hub for all the PSCs of the EEA States, the information provided by the Norwegian Government there is presented in two parts: one is called “**Start and run Business**”, directed to permanent business models, and the second one “**Cross-Border Service Provision in Norway**” for temporary and occasional cross-border service provision. Following the explanations/guidance provided under both sections, an applicant is ultimately lead to the individual (application) “forms” on the *Altinn*-portal to initiate the relevant application process.

Accordingly, when looking at the *Altinn* page under the “all forms” tab, one can find on the left-hand side a selection menu (“*All forms*”) that includes also links to “**authorizations and qualifications such as certificates and authorizations to run a business**” and “**recognition of professional qualifications**”. While the latter is considered to be the access point on the PSC under the Professional Qualifications Directive, the first one is the access point under the Services Directive.

When clicking on the respective side menus, categories of services/professions pop up (construction, health, etc). When clicking on the individual categories, specific services/professions appear on the screen, together with an indication of the respective competent authority. From this list, a user may select a service/profession, which he intends to provide/pursue in Norway.

#### 4.1.1 General Information provided on the PSC

As to the content of the PSC homepage that is reached via the EUGO web-link, the explanations on temporary and occasional service provision are partly incorrect. It is stated:<sup>15</sup>

*“There is little difference between temporary and permanent cross border service provision in Norway. The procedures for temporary service provision in Norway*

<sup>12</sup> In at least the formats or using the methods defined in the Commission Implementing Decision (EU) 2015/15067.

<sup>13</sup> *Altinn* weblink: <https://www.altinn.no/skjemaoversikt/>.

<sup>14</sup> EUGO-weblinks: [https://single-market-economy.ec.europa.eu/single-market/services/directive/points-single-contact\\_en](https://single-market-economy.ec.europa.eu/single-market/services/directive/points-single-contact_en).

<sup>15</sup> <https://www.altinn.no/en/start-and-run-business/cross-border-service-provisjon/cross-border-service-provision-in-norway/>. Last updated on 12.1.2023.

*are very similar to those for establishing a permanent business. A Norwegian organisation number would therefore generally be required in order to provide services in Norway.*

*In this respect, legislation and regulation is different in Norway compared to countries in EU, mainly because Norway is an EEA country, but not an EU member state. Norway is also not a member of the European VAT union as defined by the VAT Directive. As a consequence, businesses very often need to register for VAT in Norway.”*

The Authority wants to emphasise that the EEA Agreement establishes separate rules for the freedom to provide services under Article 36 and the freedom of establishment under Article 31, which mirror the provisions of the Treaty on the Functioning of the European Union.

Specifically for the **regulated professions**, there seem to be no general explanations on the recognition and process for the purpose of permanent establishment on the PSC. The section: The first part of the website, “**Start and run Business**”, directed to permanent business models, does not contain any information for regulated professions and the recognition of the required qualifications. The second part of the website on “**Cross-Border Service Provision in Norway**” contains only information for temporary and occasional cross-border service provision for regulated professions. Also, the links from this site only refer to certain aspects of temporary and occasional service provision.

In this context, the Authority would like to state that the information concerning regulated profession “**Prior checks – checks of professional qualifications**”<sup>16</sup> is also partly incorrect or at least misleading. It is stated:

*“If you wish to work in Norway on a temporary basis for the first time, the recognition office may carry out a prior check. By prior check is meant that the recognition office can demand that you submit an advance notification confirming that you can practise your profession in Norway.*

*Recognition offices can only require prior checks to prevent serious harm to service recipients' health or public safety. Prior checks only apply to professions that fall under the scope of the general system for recognition on the basis of evidence of formal qualifications. In principle, prior checks do not apply to professions that fall under the scope of recognition on the basis of professional experience, coordination of minimum training requirements (harmonised professions), and common training principles.*

*The recognition office normally has three months for case processing from receiving the advance notification until the final decision on professional practice must have been made in cases where substantial differences exist. In the event of delays, another two months can be allowed for case processing, which gives a total case processing time of up to five months. During this period, it must be assessed whether substantial differences exist, whether you have to take an aptitude test and whether you have to have taken an aptitude test. If these deadlines are not observed, you are entitled to practise your profession.”*

First, it has to be emphasised that temporary and occasional service providers do not, as general rule, need have their qualifications recognised. A prior declaration that a service will be provided together with relevant information as specified in Article 7(1) and (2) of the PQD is sufficient. It is not necessary to await the response of the competent authorities. Only in exceptional cases, namely for the professions notified in the regulated

<sup>16</sup> <https://www.altinn.no/en/recognition-foreign-professional-qualifications/prior-checks-of-professional-qualifications/>. Last updated 29.01.2019.

professions database<sup>17</sup>, qualifications may be checked prior to the first service provision under the specific conditions set out in Article 7(4) of the PQD.

*Second*, Norway has notified many professions in the regulated professions database and, accordingly, presents on *Altinn* a list of professions where this exceptional prior check applies: in total 145 of its overall 189<sup>18</sup> regulated professions. Certain professions that are listed there, such as doctors, dentists, pharmacists, nurses, midwives, veterinary surgeon (sectoral professions), who are eligible for automatic recognition, are, however, explicitly exempted from this procedure according to Article 7(4) of the PQD. Moreover, a vast majority of the professions listed do not, in the view of the Authority, meet the necessary requirement, namely, to establish a “*risk of serious damage to the health or safety of the service recipient due to a lack of professional qualification of the service provider*”, to be eligible for this procedure.<sup>19</sup>

*Lastly*, the procedure described in terms of deadlines reflects the standard procedure for establishment applications (see Article 51 of the PQD) and not for temporary and occasional service provision, which can be at most three months long and not five months (see Article 7(4), sub-paragraphs 2 to 4 of the PQD).

The Authority has already drawn the attention to this flawed information in its letter dated 22 December 2022. Norway has replied in its letter dated 17 March 2023 that it would look into these comments by the Authority without indicating any concrete measures or timeline.

## **4.2. Accessibility of the availability and quality information through the Norwegian PSC**

### **4.2.1 Accessibility of information related to foreign service providers**

According to Article 7 of the Services Directive, the information on applicable requirements, the contact details of the competent authorities, the means of, and conditions for, accessing public registers and databases on providers and services, the generally available means of redress and the contact details of the associations or organisations, other than the competent authorities from which providers or recipients may obtain practical assistance should be provided in a clear and unambiguous manner and be easily accessible at a distance and by electronic means to providers and recipients through the PSC. The information should be kept up to date.

Article 57(1) of the PQD complements the Services Directive by extending the obligations of Article 7 of the Services Directive to professions outside the scope of the Services Directive, like health professions, as well as to recognition procedures for employees.

The Authority considers that the obligation laid down in Article 7(1) of the Services Directive, and in Article 57(2) of the PQD specifically for regulated professions, requiring that information should be easily accessible means that it should be available on the PSC

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<sup>17</sup> <https://ec.europa.eu/growth/tools-databases/regprof/home>: The database contains information on regulated professions, statistics on migrating professionals, contact points and competent authorities, as provided by EU Member States, EEA EFTA countries, the UK and Switzerland. This database is thus administered by the European Commission but maintained by the States. The information in this database is not legally binding, but only of indicative value (see CJEU Case C-270/21, *A v Opetushallitus*, EU:C:2023:147, paragraph 51).

<sup>18</sup> Data taken from the regulated professions database on 1 May 2023.

<sup>19</sup> In particular, construction professions (forklift truck operator, crane driver etc), electrical professions (electrician (low voltage), automation electrician, automation mechanic, etc), animal health professions, road traffic related professions (responsible manager of tachograph workshop, technical manager of vehicle, inspection centre, workshop manager), etc.

website or the PSC website should direct users to the relevant external webpage (for example, of the competent authority) where the relevant information is published.

The PSC for services in Norway works in the following way. When applicants select on the *Altinn* “all forms” page the specific service, for which they want to acquire a license in Norway (see explanations under point 4.1), the page that opens has on its top left the Title “*Application for [the Service/profession]*” and underneath the active link (“*Start service*” button) to access the actual application procedure. When clicking on “*Start service*”, one is directly transferred to another page to log-into the application system (mostly into *Altinn*). Below the “*Start service*” button, one can find a list of Q&As relevant to the specific service.

There it states<sup>20</sup>:

**“About this form**

- Guidance / When should I use this form?
- Who should use this form?
- What should I attach?
- Why should I use the form?
- More about the form
- Regulations relating to the specific profession
- Regulations relating to regulated education and training
- Questions about the service?”

Lastly, below the Q&A section, when municipalities are the competent authorities, one can choose the relevant municipality and will receive a link to the respective municipality’s website - the homepage of the municipality. On the very right bottom, questions can be submitted to the competent authority in writing.

The Norwegian Government explained in its letter of 17 March 2023 that there are more than 60 licenses under the Services Directive in Norway. Their digital availability differs as well as the availability of information/forms in other languages than Norwegian. Moreover, some licenses need to be obtained at local level. Since there are 356 municipalities in Norway, they do not have a common digital platform and no common application services.

After having checked more than 50 services and professions, the Authority reaches the following conclusion.

The text in the Q&A section is generally very short, maximum one to two sentences per question that often state no more than that it is necessary to get a license to pursue a specific activity in Norway, but do not explain anything about the process. The services concerned by this finding are at least the following: general emission permits, acquisition of waterfalls, establishment of finance companies, establishment of investment companies, license to operate a pension undertaking, permit to establish insurance companies, registration of exporters of fish and fish products, sea-ranching license, approval of recording centre, certification of cargo ships, lighters and passenger ships.

At least for the following services, the links to competent authorities that are given for more information do not work (mostly under “Why I need to submit the form?”): Handling of flammable goods, master craftsman, authorisations for hunters’ test instructors, licence to engage in reindeer husbandry, registration of exporters of fish and fish products, sea-ranching license, approval of recording centre, certification of cargo ships, lighters and passenger ships, sea-ranching license, approval of recording centre, certification of cargo ships, lighters and passenger ships.

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<sup>20</sup> Not always all / the same questions are listed; mostly 3 - 5 questions.

Under the same heading (“Why should I use the form?”), often direct links to the national legislation in force<sup>21</sup> are used without providing any other information on the PSC or the website of the competent authorities or other institutions that could assist an applicant, as required by Article 7 of the Services Directive. This is the case at least for the following services: food and alcohol licenses, permit to discharge wastewater from residential dwellings, cabins and the like in separate systems, requirement for furnishing of guarantees for tour organiser activities, approval of enterprises that wish to market organic products, firearms certificate for slaughtering, notification of handling of hazardous substances, permit for the sale, packaging, import and export of seed, license to operate a totalisator, requirement for notification and assessment prior to the establishment of a research biobank, taxidermist and many more.

The reason why the Services Directive requires information on the PSC or a related website and why that requirement is not satisfied by a link to the national law, is that it is very burdensome for foreign service providers to read through national legislation, without knowing the national legal background and legal traditions, which vary a lot throughout the EEA. Moreover, such links may not function, because every amendment to national legislation (even when unrelated to foreign service providers) changes the link and thus the old link would not work anymore. Therefore, links to the national legislation cannot be considered to be “easily accessible information”, but can only be used as a supplementary tool in addition to information provided on or via the PSC.

When it comes to services for which the municipalities are responsible, applicants, when choosing a municipality, are directly referred to the homepage of the municipality, where they would need to start seeking for the relevant information and application service again. This observation was made by the Authority in all cases checked where municipalities are the competent authorities.

If a system based on linking websites is the preferred option of a State, it must make sure that the links lead directly to the site of the municipality where the relevant information is displayed and not to the general home page from which applicants need to start their search for the relevant information anew. Linking to the website of competent authorities in order to then enable further searching for the procedure or providing no link at all are therefore not deemed to comply with Articles 6 and 8 of the Services Directive<sup>22</sup> or with Article 57a of the PQD in conjunction with Article 8 of the Services Directive.

Lastly, in no case for services, could the Authority find information about the cost of the respective applications, the possibilities of payment within the application process and generally available means of redress.

To conclude, due to the issues addressed above the conditions set out in Articles 7(1) to (3) of the Services Directive and Article 57(1) of the PQD are not fulfilled. It would thus appear that there is a breach of the obligations laid down in Articles 7(1) to (3) of the Services Directive and Article 57(1) of the PQD by Norway for not providing relevant information in an easily accessible way, i.e. either by the display of the required information on the PSC website or by ensuring that the PSC website directs users to the relevant external webpage where the relevant information is published, in at least the above mentioned instances.

On the basis of the foregoing considerations, the Authority invites the Norwegian Government to take the necessary measures in order to:

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<sup>21</sup> Via a link to an act or regulation in [www.lovdato.no](http://www.lovdato.no).

<sup>22</sup> Already the old Handbook on the Implementation of the Services Directive of the European Commission has indicated the importance of this approach (“the points of single contact are meant to be the single institutional interlocutors from the perspective of the service provider, so that he does not need to contact several competent authorities or bodies (...) to complete all necessary steps relating to his service activities”), point 5.2, page 18.



- ensure that users can find the relevant information on requirements on procedures either directly on the PSC (= *Altinn*-portal homepage accessed via the EUGO web-link) or through the PSC (= links to competent authorities' websites - directly to where the relevant information is provided) in general and, in particular, as regards the services/professions mentioned above;
- ensure that users are provided with the information about the cost of the respective applications, the possibilities of payment within the application process and generally available means of redress;
- transmit, where relevant, plans or progress reports, including measures proposed and timetables for their adoption, according to which the accessibility of information through the PSC will be ensured in relation to all the areas covered by the Services Directive and all professions covered by the PQD.

#### **4.2.2 Lack of specific information required under the Professional Qualifications Directive**

Article 57(1) of the PQD specifically provides for certain information which has to be provided by EEA States. This includes:

- a) a list of all regulated professions including contact details of the competent authorities for each regulated profession and the assistance centres referred to in Article 57b;
- b) a list of the professions for which a European Professional Card is available, the functioning of that Card, including all related fees to be paid by professionals, and the competent authorities for issuing that Card;
- c) a list of all professions for which the relevant State applies Article 7(4) under national laws, regulations and administrative provisions;
- d) a list of regulated education and training, and training with a special structure, referred to in point (c)(ii) of Article 11;
- e) the requirements and procedures referred to in Articles 7, 50, 51 and 53 for the professions regulated in the relevant State, including all related fees to be paid by citizens and documents to be submitted by citizens to competent authorities;
- f) details on how to appeal, under national laws, regulations and administrative provisions, decisions of competent authorities adopted under this Directive.

Moreover, according to Article 57(2) of the PQD, EEA States shall ensure that the information referred to in paragraph 1 is provided in a clear and comprehensive way for users, that it is easily accessible remotely and by electronic means and that it is kept up to date. The Authority considers that the obligation laid down in Article 57(2) the PQD requiring that information should be easily accessible means that it should be available on the PSC website or the PSC website should direct users to the relevant external webpage (for example, of the competent authority) where the relevant information is published.

The following professions were assessed in detail in respect to the above-mentioned requirements: diver, veterinary nurse, veterinary surgeon, forklift operator, electrician, qualified person for ecom networks authorisations, authorised rock blaster, firefighter, security guard, dentist, doctor (general and specialist), lawyer, midwife, nurse, mining professional, taxidermist, real estate agent, tax advisor, driving instructor, teacher and translator.

In respect to recognition of professional qualifications of regulated professions the structure of the PSC is the same as for the services as described at point 4.2.1. The problems related to the lack of specific information for regulated professions are the following.

*First*, Article 57(1)(b) of the PQD requires information in relation to the issuing of a **European Professional Card (EPC)** on the PSC. On *Altinn*<sup>23</sup>, one can find some information (competent authority and that no fee is required) about the five professions for which an EPC is available in the EEA, but no specific information about the process, document requirements or translations etc.<sup>24</sup> The direct links emanating from the name of the respective professions do not however lead to an EPC application, but to the general recognition procedure. The link for the application for a **European Professional Card (EPC)** leads to the home page of the “Your Europe” homepage and the applicant has to search further for the exact page to apply for an EPC. Such link is not sufficiently targeted. The information can therefore not be considered “easily accessible” as required by Article 57(2) of the PQD.

In that context, the Norwegian Government is reminded that it is currently not yet possible for a professional to apply for an EPC in Norway, since Norway has not submitted the relevant information in the **Internal Market Information System (IMI)** on how an EPC can be acquired in Norway within the IMI System, including all required documents, translations, etc. When this information does not exist in IMI, it is not possible for an applicant to apply for an EPC, since it is not clear whether an application file is complete. This was confirmed by Norway in its letter dated 17 March 2023.

According to Article 4a(1) of the PQD, EEA States shall issue holders of a professional qualification with a Professional Card upon their request and on condition that the relevant implementing Act has been put in place. That implementing Act is Regulation 2015/983<sup>25</sup>, which entered into force in the EEA on 1 January 2019, the same day as Directive 2013/55.

To conclude, since Norway has not yet submitted the necessary information in IMI, professionals are not able to apply for EPCs and, consequently, it fails to fulfil the obligations arising from Article 4a(1) of the PQD. As a consequence of the first issue, also no information about the EPC procedure can be provided on the PSC and, thus, Norway has also failed to fulfil its obligations arising from Article 57(1)(b) of the PQD. Lastly, since the link to the application for the EPC is not easily available, Norway has also failed to fulfil its obligations arising from Article 57(1)(b) of the PQD in conjunction with Article 57(2) of the PQD.

*Second*, the Norwegian PSC contains a list of all professions for which it requires a prior check of qualification for temporary and occasional service provision (Article 57(1)(c) of the PQD). However, as pointed out under point 4.1.1, the list goes far beyond what Article 7(4) of the PQD would allow for.

In the light of the above, Norway has failed to fulfil its obligations arising from Article 7(4) PQD in conjunction with Article 57(1)(c) of the PQD for providing a list of professions that clearly goes beyond the requirements established under Article 7(4) PQD.

*Third*, in relation to the requirements of providing information about the different application procedures as set out in Article 57(1)(e) of the PQD, the procedures on the recognition of professional qualifications on the PSC are not clearly presented by a distinction between procedures for permanent establishment (Article 50 and 51 of the PQD) and temporary and occasional service provision (Article 7 of the PQD) (see as

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<sup>23</sup> <https://www.altinn.no/en/recognition-foreign-professional-qualifications/the-european-professional-card-epc/>.

<sup>24</sup> Real estate agent, pharmacist, general care nurse, physiotherapist and maintain guide.

<sup>25</sup> Commission Implementing Regulation (EU) 2015/983 of 24 June 2015 on the procedure for issuance of the European Professional Card and the application of the alert mechanism pursuant to Directive 2005/36/EC of the European Parliament and of the Council, OJ L 159, 25.6.2015, p. 27. incorporated at point 1b of Annex VII to the EEA Agreement by Joint Committee Decision No 237/2017 of 15.12.2017.

described under point 4.1.1). This applies at least for the professions of diver, qualified person for ecom networks authorisations, firefighter, security guard, lawyer, mining professional, taxidermist, real estate agent, tax advisor, teacher and translator. For those professions essentially only the procedure for permanent establishment is explained.

Moreover, as set out under point 4.1.1 as well, the deadlines for the procedure for the purpose of temporary and occasional service provision under Article 7(4) of the PQD are wrong.

What is more, as to Article 53 of the PQD concerning the knowledge of languages, it is stated on the PSC for all professions assessed (except animal health professions and taxidermist and qualified person for ecom networks authorisations) that no language requirement exists. However, it is always added that “*the competent authority may require proof of sufficient Norwegian language knowledge necessary for practicing the profession*”. This information is confusing for the applicant, as it seems that one could get a license without any knowledge of Norwegian, since there is no language requirement in place, but in the end the authorities could refuse the pursuit of the profession, if no proof of knowledge of Norwegian can be brought forward by the applicant. A proof of sufficient knowledge of language is also to be considered a language requirement that is covered by Article 53 of the PQD. The information would therefore need to be corrected to indicate that a language requirement exists.

As to the profession of taxidermist, mining professions and teachers, no explanations about the recognition procedures are given, but only references are made to EU law and/or national legislation. For taxidermists, even the old EEA acquis from before 2007 is used as reference. This cannot be considered easily accessible information that is kept up to date in line with Article 57(2) of the PQD.

*Last*, where fees for a recognition procedure arise, i.e. for health professions, the possibilities of payment within the application process is not specified. The Norwegian Government has pointed out in its letter dated 17 March 2023 that generally all major internationally accepted credit cards are accepting within *Altinn*. This information is however nowhere stated on the PSC and thus not visible to the user.

In the light of the instances described above, it would appear that there is a breach of obligations laid down in Article 57(1)(e) of the PQD in at least the mentioned instances. Norway has, thus, failed to fulfil its obligations under Article 57(1) letter (e) of the PQD alone and in conjunction with Article 57(2) of the PQD, by not providing the required information specific regulated professions on or via the PSC.

On the basis of the foregoing considerations, the Authority invites the Norwegian authorities to take the necessary measures in order to:

- ensure that information on requirements concerning the access to or exercise of an activity falling within the scope of the PQD clearly distinguishes situations of establishment and occasional and temporary cross-border provision of services, and to revise the professions covered by Article 7(4) of the PQD;
- verify the PSC in order to ensure that the information relating to all service activities, as well as all procedures for recognition of professional qualifications, including the issuing of a European Professional Card, including costs and payment methods are available online on or via the PSC;
- ensure that the relevant information for the issuing of an EPC is submitted to the IMI system;
- transmit, where relevant, plans or progress reports, including measures proposed and timetables for their adoption, according to which the accessibility of information through the PSC will be ensured in relation to all professions covered by the PQD.

### 4.3. Possibility to complete a procedure wholly at distance and by electronic means through the PSC

Article 6(1) of the Services Directive provides that EEA States should ensure that it is possible for providers to complete through the PSCs all procedures and formalities needed for access to their service activities and any applications for authorisation needed to exercise their service. Paragraph 2 provides that the creation of PSCs should not interfere with the allocation of functions among competent authorities within each national system.

Article 8(1) of the Services Directive provides that EEA States should ensure that all procedures and formalities relating to access to a service activity and to the exercise thereof may be easily completed, at a distance and by electronic means, through the relevant PSC and with the relevant competent authorities.

Article 57a(1) of the PQD provides that EEA States should ensure that all requirements, procedures and formalities relating to matters covered by the PQD may be easily completed, remotely and by electronic means, through the relevant PSC or the relevant competent authorities. According to Article 57a(4) of the PQD all procedures shall be carried out in accordance with Article 8 of the Services Directive relating to the PSC.

#### 4.3.1 Availability of online procedures through the PSC

As set out under point 4.2.1, when an applicant has selected on the *Altinn* “all forms” page the service, for which he wants to acquire a license in Norway, the page appearing is structured in the following way: on the top of the page appears the Title “*Application for [the service/profession]*” and underneath the active link (“*Start service*” button) to access the actual application procedure. When clicking on “*Start service*”, one is directly transferred to another page to log-into the application system (mostly into *Altinn* or otherwise in one of the relevant competent authorities). This is only possible with a Norwegian electronic ID or a Norwegian D-number. Alternatively, as the Norwegian Government has pointed out in its letter of 17 March 2023, an application can be made also without Norwegian ID by way of a one-time password that is obtained by creating one’s own user ID. In this way, all procedures can be accessed.

The *Altinn* “all forms” website does however not foresee any electronic procedure for a license/professional recognition for the professions of legal advisor, veterinary surgeon and veterinary nurse. There is no link to be found that would lead to an electronic application form on the PSC.

The Authority considers that in order to comply with Articles 6(1) and 8(1) of the Services Directive, and with Article 57a of the PQD in conjunction with Article 8 of the Services Directive, EEA States must ensure that PSCs either allow service providers or professionals to access the relevant procedure through the PSC website or directly reroute users to the relevant procedure on the webpage of a competent authority.

Providing no access to online procedures for the professions of legal advisor, veterinary surgeon and veterinary nurse would therefore appear not to comply with Articles 6 and 8 of the Services Directive or with Article 57a of the PQD in conjunction with Article 8 of the Services Directive.

The Authority therefore invites the Norwegian authorities to take the necessary measures in order to comply with their obligations under Articles 6(1) and 8(1) of the Services Directive and under Article 57a of the PQD read in conjunction with Article 8 of the Services Directive and to:

- verify the PSC website in order to ensure that the procedures and formalities imposed under Norwegian law, relating to all service activities covered by the Services Directive as well as all procedures for recognition of professional qualifications covered by the PQD are available online through the PSC;
- transmit, where relevant, plans, including measures and a timetable, according to which the accessibility of procedures and formalities through the PSC will be ensured in relation to all the areas covered by the Services Directive and all professions covered by the PQD.

#### **4.3.2. Possibility to complete a procedure wholly at a distance and by electronic means through the PSC**

The Authority takes the view that the “completion of a procedure” referred to in Articles 6(1) and 8(1) of the Services Directive covers all the steps the service provider is required to take in order to obtain from the competent authorities a formal or implied decision concerning access to a service activity or the exercise thereof. The service providers therefore need to be able to obtain all pertinent information, forms and documents relevant to the procedures, to submit documents and applications via electronic means.

The Services Directive does not define the term “electronic means”. The Authority considers that in order to ensure that electronic procedures are easily accessible for providers, they should in principle be available via publicly accessible communication networks such as the internet and have to be available for the whole administrative process, from the service provider’s initial application/submission of documents to the final reply, if required, from the relevant competent authority.

Taking into account the developments related to information and communication technologies, the common use and accessibility of Internet-based solutions and the meaning given to the term “electronic means” in other pieces of EEA law, the Authority considers that a procedure that must “be easily completed at a distance and by electronic means” and “through the PSC” should allow the completion of all its steps in a structured way through one service channel.

This means that a procedure which requires the user to produce a physical document does not comply with the requirements set out by Articles 6(1) and 8(1) of the Services Directive, or with Article 57a of the PQD read in conjunction with Article 8 of the Services Directive. In particular, a procedure, which requires the user to download a form, which then has to be printed, filled in by hand and sent by traditional mail or scanned, uploaded and attached to an e-mail for submission to the relevant authorities does not meet, in the Authority’s view, the express requirement to “be easily completed at a distance and by electronic means”.

This is precisely the case for the profession of lawyer (*advocat*) where a link leads from the PSC to the website of the competent authority, where merely a PDF document is available, which needs to be filled in, printed, signed by hand and sent by ordinary mail to a postal address.

Therefore, it would appear that there is a breach of the obligation laid down in Articles 6(1) and 8(1) of the Services Directive, or in Article 57a of the PQD read in conjunction with Article 8 of the Services Directive in terms of availability of procedures by electronic means through the PSC website for the profession of lawyer.

#### **4.4. On the possibility to use electronic identification**

The eIDAS Regulation governs certain means of electronic identification and, in relation to those, its Article 6 requires EEA States to recognise those electronic identification means issued in other EEA State for access to a service provided by a public sector body

online, such as the PSC. Such recognition is subject to the following conditions: (a) the electronic identification means is issued under an electronic identification scheme that is included in the list published by the European Commission pursuant to Article 9; (b) the assurance level of the electronic identification means corresponds to an assurance level equal to or higher than the assurance level required by the relevant public sector body to access that service online in the first Member State, provided that the assurance level of that electronic identification means corresponds to the assurance level substantial or high; and (c) the relevant public sector body uses the assurance level substantial or high in relation to accessing that service online.

Many schemes notified pursuant to Article 6 of the Regulation have already been published in the Official Journal or are currently being scrutinised by the European Commission.<sup>26</sup>

In its reply to a request for information of 17 March 2023, the Norwegian Government stated clearly that foreign e-IDs were not accepted on Norwegian public sector websites for completion of necessary procedures/formalities. Therefore, since an e-procedure that requires e-ID, must allow for use of e-IDs from other Member States, the non-acceptance of foreign e-IDs is a breach of Article 6 of the eIDAS Regulation in relation to the e-IDs published in the Official Journal and, regarding other e-IDs, a breach of Articles 6(1) and 8(1) of the Services Directive as well as, regarding procedures concerning the recognition of professional qualifications, of Article 57a(1) of the PQD.

The references to the eIDAS Regulation in the present LFN are limited to and concern only the specific application of Article 6 of the eIDAS Regulation as regards the recognition of electronic identification means issued in other EEA States for access to the PSC under the Services and the PQD in Norway.

## 5 Conclusion

Accordingly, as its information presently stands, the Authority must conclude that, by

- not providing the relevant information as required by Articles 6, 7 and 8 of the Services Directive available on or through the PSC, in the instances set out under point 4.2.1,
- not providing the specific information specific to regulated professions as required by Article 57 and 57a of the Professional Qualifications Directive on or through the PSC, in the instances set out under point 4.2.2,
- not submitting the relevant information about document requirements etc into IMI for the purpose of issuing EPCs to professionals, as set out under point 4.2.2,
- not providing a list of professions that need to have their qualifications checked for the purpose of temporary and occasional service provision on the PSC, which goes beyond the requirements under Article 7(4) of the PQD, as set out under point 4.2.2,
- not providing access to an electronic procedure on or through the PSC for the professions of legal advisor, veterinary surgeon and veterinary nurse, as set out under point 4.3.1,

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<sup>26</sup> <https://ec.europa.eu/digital-building-blocks/wikis/display/EIDCOMMUNITY/Overview+of+pre-notified+and+notified+eID+schemes+under+eIDAS>.

- not allowing for a full electronic process to apply for a license or recognition of professional qualifications on or through the PSC for the profession of lawyer, as set out under point 4.3.2,
- not allowing foreign eIDs, published in the Official Journal or not, to access the electronic procedures, as set out under point 4.4,

Norway has failed to fulfil its obligations arising from Articles 6, 7 and 8 of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 *on services in the internal market* Articles 4(1)(a), 7(4), 57 and 57a of the Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 *on the recognition of professional qualifications* and Article 6 of the Regulation (EU) No 910/2014 *on electronic identification and trust services for electronic transactions in the internal market* as amended and adapted to the EEA Agreement by Protocol 1 thereto.

In these circumstances, and acting under Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, the Authority requests that the Norwegian Government submits its observations on the content of this letter *within two months* of its receipt.

After the time limit has expired, the Authority will consider, in the light of any observations received from the Norwegian Government, whether to deliver a reasoned opinion in accordance with Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

For the EFTA Surveillance Authority

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*This document has been electronically authenticated by Arne Roeksund, Melpo-Menie Josephides.*