

Case No: 86674  
Doc No: 1229273

Package Meeting in Norway  
28-29 October 2021

Proposal for discussion points

**Veterinary and Phytosanitary Matters / Foodstuffs  
(Annex I / Annex II, Chapter XII)**

**Responsible case handler: Craig Simpson**

*Incorrect application by Norway of certain requirements concerning controls of consignments in transit or transshipment and the customs-approved treatment or use of consignments from third countries (Case No 85428)*

This case concerns the incorrect application by Norway of EEA legal requirements relating to the following recommendations from the Authority's final report of its mission to Norway on import controls and the use of TRACES in import and trade from 23 to 27 October 2017 (Doc No 895618) ('the recommendations'):

Recommendation 6: *"The competent authority should ensure that no consignments in transit and transshipment from a non-EEA country are introduced into the EEA without undergoing the necessary veterinary checks as required by Articles 3(1) and 11(2) of Directive 97/78/EC".*

Recommendation 7: *"Norway should ensure that the customs authorities allow the intended customs-approved treatment or use of the consignments only in accordance with the conditions set out in the certificate referred to in Article 5(1) in accordance with Article 3(4) of Directive 97/78/EC."*

By letters dated 5 November 2020 (Ministry of Agriculture and Food ('Ministry') reference 16/996-, Doc No 1161774) and 7 May 2021 (Ministry reference 21/385, Doc No 1199932), the Norwegian Government informed the Authority that a joint Norwegian Food Safety Authority ('NFSA') and Norwegian Customs ('Customs') working group had been set up. Its mandate was to assess the viability of the following long-term and temporary solutions for establishing the NFSA and Customs cooperation required to ensure veterinary border controls of consignments in transit and/or transshipment and the timelines for implementing those solutions:

- Norwegian Customs would participate in the EU's new advance cargo information system ('ICS2'), to be fully implemented in Norway by 2024, ('long term solution').

- In the meantime, the NFSA would cross-check on a monthly basis lists of Entry Summary Declarations from the Norwegian component of the European New Computerised Transit System (as extracted and provided to it by Customs) against Trade and Control Expert System ('TRACES') pre-notifications in order to identify relevant consignments requiring veterinary border controls ('temporary solution').

By letter dated 12 July 2021 (Ministry reference 21/385, Doc No 1215405), the Norwegian Government informed the Authority that the first part of a conceptual report identifying possible solutions had been finalised by the working group. However, the working group required further time to elaborate on the possible solutions in order to complete the second part of the conceptual report. This next stage would require involvement of IT-personnel from both Customs and the NFSA with engineering competence and more specific knowledge of the relevant IT-systems. A new meeting to discuss such IT-technical level issues was scheduled for the end of August 2021. The Ministry anticipated completion of the second part of the conceptual report shortly after this meeting and conclusion by the Ministries on the further steps required and their timelines during September 2021.

The Authority would like to discuss with the NFSA, Customs, the Ministry of Finance and the Ministry the Ministry's letter dated 12 July 2021 (Ministry reference 21/385, Doc No 1215405), the outcome of the meeting scheduled end of August and any subsequent progress in defining further steps required and their timelines, and any related future correspondence between the Authority and the Norwegian Government prior to the meeting.

**Estimated time: 45 minutes**

Package Meeting in Norway  
28-29 October 2021

Proposal for discussion points

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

**Responsible case handler: Gudlaug Jonasdottir**

**HYBRID MEETING - Gudlaug Jonasdottir will join remotely**

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

On 19 March 2018, the Authority received a complaint against Norway concerning the classification of CBD-oil supplements made from industrial hemp (Doc No 904153).

By a letter of 8 May 2018 (Doc No 908231), the Norwegian Government was invited to provide the Authority with information as regards the classification of CBD-oil products and to provide reasoning, in light of Article 1(2) of Directive 2001/83/EC, had such supplements been classified as medicinal products.

By a letter of 18 June 2018 (Doc No 919624; your ref. 18/1517-4) Norway replied to the request for information stating that the Norwegian Medicines Agency ("NoMA") had not yet made a formal classification of a product containing CBD but only preformed a preliminary assessment of such products in general. However, three formal requests for classification had been received and would be evaluated in due time.

The case was discussed at the package meeting in Norway in October 2019. At the meeting, the Authority was informed that NoMA had reached a conclusion in all three cases referred to above, which had all been appealed to the Ministry of Health and Care Services. By letter dated 18 December 2019 (Doc No 1105398; your ref. 16/2024-), the Norwegian Government replied to the Authority's follow-up letter from the package meeting. In the letter, it was stated that the Authority would be informed of the outcome of the appeals process as soon as it became available

On 20 September 2021, IMA sent a supplementary request for information to the Norwegian Government (Doc No 1227294), asking about the outcome of the appeals process as well as any developments in the case in light of the CJEU's judgment in case C-663/18. The deadline to reply is 21 October 2021.

At the package meeting, the Authority would like to discuss the status of the case, in light of the most recent correspondence. The Authority would like to discuss the case with representatives of the Ministry of Health and Care Services and NoMA if considered necessary in light of the reply to the Authority's latest request for information.

**Estimated time: 30 minutes**

Package Meeting in Norway  
28-29 October 2021

Proposal for discussion points

**Energy  
(Annex IV)**

**Responsible case handler:**     **Anne De Geeter  
Ada Gimnes Jaroy**

*Conformity assessment of Directives 2009/72 and 2009/73's provisions related to national regulatory authorities for Norway (Case No 84737)*

The case concerns the implementation of *Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC* and of *Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC* ("the Third Electricity and Gas Directives").

The Authority is in the process of assessing the national measures implementing the Third Electricity and Gas Directives' provisions related to national regulatory authorities in Norway. In this process, the Authority identified several areas where clarifications were needed. By letter of 16 October 2020 (Doc No 114716), the Authority sent a Request for Information to the Norwegian Government, inviting the Norwegian Government to provide the relevant information.

The Norwegian Government provided the requested information on 22 December 2020 (Doc No 117052).

At the meeting, the Authority would like to discuss the last correspondence, including the status of the case. The Authority welcomes the presence in the meeting of the National Regulatory Authority for Energy, NVE-RME.

**Estimated time: 45 minutes**

Package Meeting in Norway  
28-29 October 2021

Proposal for discussion points

**Free movement of workers / persons  
(Article 28 EEA / Annex V)**

**Responsible case handler:** Hrafnhildur Kristinsdóttir  
**Co-case handler:** Ómar Berg Rúnarsson (items 1-5)

*1. Complaint against Norway concerning family reunification – Norwegian national and a third-country national family member (Case No 77058)*

The complaint in this case concerns the issue of derived residence rights for third-country national family members of returning Norwegian nationals under Directive 2004/38/EC and the requirement of genuine residence in the host EEA State.

On 9 November 2015, the Oslo District Court sent a request for an advisory opinion to the EFTA Court in the complainant's case and on 26 July 2016, the EFTA Court delivered its judgment (Case E-28/15 *Jabbi*).

The case was discussed at the package meeting in Oslo in October 2018. The Norwegian Government replied to the Authority's follow-up letter, by letter dated 19 December 2018 (Doc No 1044628 / your ref. 18/2582-). A supplementary request for information was sent to Norway on 23 January 2019 (Doc No 1046241) and Norway replied by letter dated 21 February 2019 (Doc No 1054340 / your ref. 15/967-).

On 28 June 2019, the Norwegian Supreme Court sent a request for an advisory opinion to the EFTA Court and on 13 May 2020, the EFTA Court delivered its judgment in Case E-4/19 *Campbell*.

On 10 July 2020, the Authority sent a request for information to Norway (Doc No 1140389), asking for information on which measures the Government intended to take in order to comply with the *Campbell* judgment. Norway replied by letter dated 31 August 2020 (Doc No 1149607 / your ref. 15/967-), noting that the Ministry was in the process of making an assessment of the *Campbell* judgment and that some adjustments might be made to Circular AI-2/2017 point 3.

The case was discussed at the 2020 package meeting with Norway. In its reply to the Authority's follow-up letter, dated 29 January 2021 (Doc No 1177355 / your ref. 15/967-), the Norwegian Government stated that Circular AI-2/2017 would need to be completely reviewed and that the aim would be to finalise the amendments during spring 2021. By letter dated 24 March 2021 (Doc No 1190639 / your ref. 15/967-), the Norwegian Government stated that the Ministry was in the process of making a new Circular, and that the aim was to finish it by the end of May 2021. By letter dated 28 May 2021 (Doc No 1203559 / your ref. 15/967-), the Norwegian Government noted that it would not be able to submit the new Circular by the end of May and would try to finalise the work by the end of June. On 29 July 2021, the

Authority sent a supplementary request for information to Norway (Doc No 1218962), asking for an update on the process of adopting a new Circular. The Norwegian Government replied by letter dated 1 September 2021 (Doc No 1224261 / your ref. 15/967-), stating that the Ministry was in the process of finalising a new Circular, which would likely be published by the end of September.

At the meeting, the Authority would like to discuss the assessment by the Norwegian immigration authorities and courts of the requirement of genuine residence in light of the *Campbell* judgment, as well as the new Circular, with representatives from the Ministry of Labour and Social Affairs as well as from UDI and/or UNE.

**Estimated time: 1 hour**

*2. Own initiative case concerning the assessment of marriages of convenience in Norway (Case No 78450)*

The remaining issue in this case is whether Norway's legal assessment of what constitutes a marriage of convenience is in line with EEA law.

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

The case was also discussed at the package meeting in October 2018 and the Norwegian Government replied to the Authority's follow-up letter on 19 December 2018 (Doc No 1044629 / your ref. 18/2582-). The case was then discussed at the package meeting in October 2019 and Norway replied to the follow-up letter on 19 December 2019 (Doc No 1105971 / your ref. 19/2823-).

On 3 March 2020, the Norwegian Supreme Court referred a case to the EFTA Court concerning the assessment of marriages of convenience and, on 9 February 2021, the EFTA Court delivered its advisory opinion in Case E-1/20 *Kerim*. On 1 July 2021, the Norwegian Supreme Court delivered its judgment in the case.

On 7 September 2021, the Authority sent a request for information to Norway in light of the recent judgments in the *Kerim* case (Doc No 1223899). Norway's time limit to respond is 7 October 2021.

At the meeting, the Authority would like to discuss the assessment by the Norwegian immigration authorities and courts of marriages of convenience, in particular in light of the recent judgments in the *Kerim* case, with representatives from the Ministry of Labour and Social Affairs and from UDI and/or UNE.

**Estimated time: 1 hour**

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

This own initiative case was opened to examine the issuance of tax cards in Norway to EEA nationals and their third-country national family members in the context of

ensuring the right to work from day one. The Authority also received a complaint raising similar issues, which has been dealt with in the context of the own initiative case. The Authority's examination has also encompassed the issuance of national ID numbers, the reporting of a move to Norway and the requirement of legal residence.

In 2017 and 2018, certain amendments were made to the internal guidelines of the Norwegian tax authorities concerning obtaining tax cards, the right to work from day one and the reporting of a move to Norway.

Subsequently, the Authority and the Norwegian Government have engaged in formal correspondence concerning several remaining aspects of the case.

On 11 January 2019, the Authority sent a supplementary request for information to Norway (Doc No 1046002) to which Norway replied by letter dated 21 February 2019 (Doc No 1054308 / your ref. 17/1987). In that letter, the Norwegian Government acknowledged that it was not in line with Article 25 of Directive 2004/38 to require registration certificates (for EEA nationals) or residence cards (for third-country nationals) in order to be registered as residents in Norway (proof of legal residence).

The case was discussed again at the package meeting in Oslo in October 2019. Norway replied to the Authority's follow-up letter by letter dated 17 December 2019 (Doc No 1104753 / your ref. 17/1987), presenting certain amendments to the relevant guidelines in order to comply with Article 25 of the Directive.

On 15 May 2020, the Authority sent a supplementary request for information to Norway (Doc No 1121722). Norway replied by letter dated 7 September 2020 (Doc No 1151157 / your ref. 17/1987), acknowledging that further amendments to the internal guidelines of the tax authorities would be necessary.

The case was discussed at the 2020 package meeting. In its reply to the Authority's follow-up letter, dated 13 January 2021 (Doc No 1172965 / your ref. 17/1987), the Norwegian Government explained the process of reviewing the internal guidelines and practices of the tax authorities.

On 7 September 2021, the Authority sent a supplementary request for information to Norway (Doc No 1224502), asking for an update on the planned amendments to the internal guidelines of the tax authorities and adoption of new procedures, in order to comply with Article 25 of Directive 2004/38. Norway's time limit to respond is 7 October 2021.

At the meeting, the Authority would like to discuss the practice of the tax authorities concerning the reporting of a move to Norway and the requirement of legal residence, as well as the planned amendments to the relevant guidelines, with representatives from the Ministry of Finance as well as from the tax authorities.

**Estimated time: 30 minutes**

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



This case was opened to examine the case handling time of applications under Directive 2004/38 by the Norwegian immigration authorities. The Authority had received, and continues to receive, a substantial number of complaints where time limits have been exceeded in the handling of applications for residence cards and the lifting of exclusion orders under Directive 2004/38.

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

On 19 March 2019, the Internal Market Affairs Directorate of the Authority sent a pre-Article 31 letter to Norway (Doc No 1059351), with the preliminary conclusion that Norway was in breach of Articles 10(1) and 32(1) of Directive 2004/38. The Norwegian Government replied by letter dated 3 May 2019 (Doc No 1067492 / your ref. 18/2680-), where it stated *inter alia* that it was taking necessary measures to ensure that the immigration authorities process applications within the relevant time limit.

Those measures were discussed at the package meeting in Oslo in October 2019. Norway replied to the Authority's follow-up letter on 9 January 2020 (Doc No 1107094 / your ref. 19/2823-) and provided further statistics concerning the case handling time of the immigration authorities for the year 2019.

By letter dated 22 January 2021 (Doc No 1169353), the Authority asked Norway for updated statistics concerning the case handling time, including for the year 2020. Norway replied by letter dated 19 February 2021 (Doc No 1182212 / your ref. 18/2680-) and provided the requested statistics.

At the meeting, the Authority would like to be updated on the measures taken to reduce the case handling time and be provided with updated statistics on the case handling time of the immigration authorities.

**Estimated time: 30 minutes**

**5. Complaint against Norway concerning children's residence rights under EEA law (Case No 84397)**

The complaint in this case concerns the issue whether Norway is in breach of Directive 2004/38 by not ensuring that EEA national children can benefit from the right of residence pursuant to Article 7(1)(b) of the Directive and by excluding stepchildren of EEA nationals from the scope of Article 12(3) of the Directive.

By letter dated 9 December 2019 (Doc No 1102678), the Authority sent a request for information to Norway. The Norwegian Government replied by letter dated 16 December 2019 (Doc No 1104457 / your ref. 19/4032-).

On 19 December 2019, the Directorate sent a pre-Article 31 letter to Norway. On 4 March 2020, the Authority sent a letter of non-cooperation to Norway (Doc No

1116170), inviting the Government to submit observations on the pre-Article 31 letter as soon as possible. By letter dated 28 April 2020 (Doc No 1131013 / your ref. 19/4032-), the Norwegian Government submitted its comments on the Directorate's pre-Article 31 letter.

On 23 September 2020, the Authority sent a letter of formal notice to Norway (Doc No 1140953), concluding that Norway was in breach of Articles 7(1)(b) and 12(3) of Directive 2004/38. Norway replied to the letter of formal notice on 30 November 2020 (Doc No 1166262 / your ref. 19/4032-).

The Authority issued a reasoned opinion to Norway on 7 July 2021 (Doc No 1184301), with the same conclusions as in the letter of formal notice.

An advisory opinion is currently awaited from the EFTA Court in the complainant's case against the Norwegian Government, E-16/20 *Q and Others*.

At the meeting, the Authority would like to discuss the case in light of the above correspondence, with representatives of the Ministry of Labour and Social Affairs as well as from UDI and/or UNE.

**Estimated time: 45 minutes**

*6. Own initiative case concerning financial assistance to studies abroad for EEA workers and their family members (Case No 77396)*

This case concerns financial support for studies abroad for migrant and frontier workers and their family members. At issue are various requirements in the Study Financing Regulation in relation to sufficient links to Norway in order to be eligible for financial assistance to studies abroad.

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

A letter of formal notice was sent to Norway on 18 October 2017 (Doc No 783169), concluding that the requirements laid down in Section 31-5 of the Study Financing Regulation were in breach of Article 28 of the EEA Agreement and Article 7(2) of Regulation No 492/2011. Norway replied by letter of 16 February 2018 (Doc No 898344 / your ref. 17/4898-), objecting to the Authority's conclusions.

The case was discussed at the package meeting in Norway in October 2018. By letter dated 10 May 2019 (Doc No 1068974 / your ref. 17/4898-), the Norwegian Government submitted proposals to amend Section 31-5 of the Study Financing Regulation.

The case was discussed again at the package meeting in October 2019. Norway replied to the Authority's follow-up letter, by letter dated 15 January 2020 (Doc No 1108100 / your ref. 17/4898-), stating that, at this stage, there were no plans to change the requirements in Section 31-5 of the Study Financing Regulation, with the exception of the changes described in the letter of 10 May 2019.

On 1 April 2020, a reasoned opinion was sent to Norway (Doc No 1110282), with the same conclusions as laid down in the letter of formal notice.

By e-mail of 21 April 2020 (Doc No 1128660), Norway informed the Authority of a new and amended Study Financing Regulation which entered into force on 15 April 2020. By letter dated 1 July 2020 (Doc No 1141624 / your ref. 17/4898-), Norway replied to the Authority's reasoned opinion, maintaining that Section 31-5 of the Study Financing Regulation complies with EEA law.

The case was discussed at the package meeting in October 2020, where the representatives of the Norwegian Government stated that no further changes were foreseen to the Study Financing Regulation.

On 13 September 2021, the Authority sent a supplementary request for information to Norway (Doc No 1225834), asking some specific questions following up on Norway's reply to the Authority's reasoned opinion in the case. Norway's time limit to respond is 14 October 2021.

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

**Estimated time: 30 minutes**

Package Meeting in Norway  
28-29 October 2021

Proposal for discussion points

**Free movement of persons  
(Annex V)**

**Responsible case handler:** Ómar Berg Rúnarsson  
**Co-case handlers:** Hrafnhildur Kristinsdóttir (item 1)  
Auður Kolbrá Birgisdóttir (item 2)

*1. Own-initiative case concerning Norway's expulsion practice for minor criminal offences (Case No 87300)*

The own-initiative case was opened on 1 September 2021. The purpose is mainly to examine Norway's expulsion practice in relation to EEA nationals who commit minor criminal offences in light of Article 27 of Directive 2004/38/EC.

A request for information was sent to Norway on 20 September 2021 (Doc No 1223984) and the time limit for Norway to reply is 21 October 2021. The Authority understands that the Borgarting Court of Appeal recently delivered a relevant judgment on the issue.

At the meeting, the Authority would like to discuss the practice of the Norwegian immigration authorities and national courts concerning the expulsion of EEA nationals who commit minor criminal offences in Norway, as well as Circular GI-02/2013. The Authority would like to discuss this with representatives of the Ministry of Justice and Public Security as well as from UDI and/or UNE.

**Estimated time: 1 hour**

*2. Complaint against Norway concerning the application of the requirement to have a comprehensive sickness insurance cover (Case No 85597)*

**HYBRID MEETING - Auður Kolbrá Birgisdóttir will join remotely**

The complaint in this case was received by the Authority on 2 September 2020. The case concerns, in particular, Norway's interpretation and application of the requirement to have a comprehensive sickness insurance cover as provided for in Article 7(1)(b) of Directive 2004/38.

More precisely, the issue is whether the immigration authorities can reject an application for a residence permit from a third-country national family member of a returning Norwegian national, because the applicant was not previously covered by a sickness insurance during the whole period of residence in the host EEA State.

By letter dated 20 April 2021 (Doc No 1186501), the Authority sent a request for information to Norway. The Norwegian Government replied by letter dated 20 May

2021 (Doc No 1202322 / your ref. 21/1181-). The Authority understands that, by judgment dated 19 April 2021, the Oslo District Court declared the decision of the Immigration Appeals Board in the complainant's case invalid and that an appeal has been made.

At the meeting, the Authority would like to discuss the practice of the immigration authorities and the national courts regarding the requirement to have a comprehensive sickness insurance cover. The Authority would like to discuss this with representatives from the Ministry of Labour and Social Affairs and from UDI and/or UNE.

**Estimated time: 45 minutes**

Package Meeting in Norway  
28-29 October 2021

Proposal for discussion points

**Social Security  
(Annex VI)**

**Responsible case handler: Per-Arvid Sjøgård**

*1. Exportability of Norwegian sickness benefits in cash (Case No 84329)*

Norwegian legislation requires that in order to be eligible for certain kinds of sickness benefits in cash (sick pay, care allowance and work assessment allowance), the person concerned must “stay in Norway” (*opphold i Norge*). Exceptionally, eligibility to those benefits may be upheld during temporary stays in another EEA State, i.e. the benefits may be exported. However, such export is conditional upon prior authorisation being granted by the national authorities. In any case, the export of a sickness benefit in cash may only be granted for a limited period.

The Norwegian Government has reassured the Authority that, since November 2019, administrative practice consists of not enforcing the above conditions to situations governed by EEA law.

On 9 June 2021, the Authority delivered a reasoned opinion on the matter (Doc No 1200885). The reply was received on 9 September 2021 (Doc No 1226129). In its reply, the Norwegian Government maintained that because the administrative practice would have been brought in line with the underlying obligations, there is currently no breach of EEA law.

Moreover, in its reply to the Authority’s reasoned opinion, the Norwegian Government stressed the importance of making national legislation accessible and that the current case had demonstrated a need for an evaluation. Reference was made to the legislative amendments proposed by the “Fredriksen-committee” on 15 June 2021, now the subject of a public consultation ending on 25 October 2021. The Norwegian Government informed the Authority of its intention to present a proposal on legislative amendments as soon as possible thereafter.

At the meeting, the Authority would like to discuss the case in light of the above correspondence, with representatives from the Ministry of Labour and Social Affairs and, as appropriate, the Labour and Welfare Service.

**Estimated time: 1 hour**

*2. Remedies for individuals affected by the wrongful application of EEA law in relation to the export of sickness benefits in cash (Case No 85884)*

By a letter dated 25 November 2020, the Internal Market Affairs Directorate (“the Directorate”) of the EFTA Surveillance Authority (“the Authority”) informed the Norwegian Government that it had opened an own initiative case to examine the measures taken by Norway in order to ensure appropriate remedies for individuals affected by the wrongful application of EEA law in relation to the export of sickness benefits in cash (Doc No 1163586), c.f. also Case No 84329 referred to above.

In its reply to the Directorate’s request for information, received on 11 January 2021, the Norwegian Government provided detailed information on the measures taken with a view to identifying all affected individuals (Doc No 1172488).

Following the EFTA Court’s judgement in Case E-8/20 *Criminal Proceedings against N*, delivered on 5 May 2021, the Directorate sent a supplementary request for information in which it inquired *inter alia* whether the Norwegian Government would now take steps with a view to identifying individuals affected by decisions adopted before 1 June 2012. The reply was received on 17 June 2021, in which the Norwegian Government provided *inter alia* an update on measures taken with a view to identifying all affected individuals (Doc No 1208296).

In its subsequent reply to the Authority’s reasoned opinion in Case No 84329 (referred to above), the Norwegian Government confirmed that the Norwegian Labour and Welfare Service (NAV) had now been instructed to start rectifying cases prior to June 2012.

At the meeting, the Authority would like to discuss the case in light of the above correspondence, with representatives from the Ministry of Labour and Social Affairs and, as appropriate, the Labour and Welfare Service..

**Estimated time: 30-45 minutes**

### 3. *Exportability of cash-for-care benefit (Case No 86224)*

By way of a letter dated 10 February 2021 (Doc No 1177117), the Directorate informed the Norwegian Government that it had opened an own initiative case to examine the Norwegian legislation and administrative practice related to the exportability of the cash-for-care benefit (*kontantstøtte*).

In the letter, the Directorate emphasised that national legislation provided *inter alia* that the cash-for-care benefit could only be disbursed to the person with whom the child was “living permanently”.

The Directorate noted that the national law appeared difficult to reconcile with the requirements of EEA law, notably Article 67 of Regulation 883/2004 which provides that a person subject to the legislation of an EEA State shall be entitled, in respect of family members residing in another EEA State, to the family benefits provided by the former State, as if they were residing in that State.

Moreover, the Directorate referred *inter alia* to the EFTA Court’s judgement in Case E-6/12, which concerned an identical requirement for the beneficiary to be “living permanently” with the child pursuant to the Norwegian Child Benefits Act. The EFTA Court had ruled that in situations where the child indeed does not live permanently

with the parent who is subject to Norwegian legislation, failing to consider whether the child is mainly dependent on that parent constitutes a breach of EEA law. Following the judgement, Norway had changed its administrative practice in order to comply with that judgement. However, no similar changes had been made to the administrative practice concerning the cash-for-care benefit.

The Norwegian Government replied on 14 September 2021 (Doc No 1226709). It confirmed that the same changes would be implemented in the administrative practice regarding the cash-for-care benefit. The new practice would be implemented from 1 January 2022.

At the meeting, the Authority would like to discuss Norway's reply of 14 September with representatives from the Ministry of Children and Families and, as appropriate, the Labour and Welfare Service.

**Estimated time: 30 - 45 minutes**

*4. Transitional benefit for single parents (overgangsstønad) – Article 3 of Regulation 883/2004 (material scope) (Case No 86218)*

By way of a letter dated 10 February 2021, the Directorate informed the Norwegian Government that it had opened an own initiative case to investigate the application of Article 3(1)(j) of Regulation 883/2004 in the Norwegian legal order (Doc No 1175938). Reference was made to national preparatory works, from which it ensued that the transitional benefit for single parents (*overgangsstønad*) was considered not to be covered by Regulation 883/2004 on the coordination of social security benefits.

In its letter, the Directorate raised several questions with a view to clarifying whether this was the position of the Norwegian Government and what would be the basis for such a view. The Directorate noted that the eligibility conditions to fulfil in order to receive the transitional benefit for single parents appeared to, *prima facie*, bring that benefit within the scope of Regulation 883/2004.

The Norwegian Government replied by letter dated 10 March 2021, in which it held that the transitional benefit for single parents did not, in its view, amount to a “social security” benefit in the sense of Regulation 883/2004.

At the meeting, the Authority would like to discuss Norway's reply of 15 June 2021 with representatives of the Ministry of Labour and Social Affairs and, as appropriate, the Labour and Welfare Service.

**Estimated time: 30 - 45 minutes**



Package Meeting in Norway  
28-29 October 2021

Proposal for discussion points

**Freedom of movement of services  
(Annex VI)**

**Responsible case handlers: Per-Arvid Sjøgård  
Ciarán Burke**

*Reimbursement of costs related to cross-border healthcare (Case No 85598)*

By way of a letter dated 30 September 2020, the Directorate informed the Norwegian Government that it had received a complaint concerning the Norwegian legislation and administrative practices on the reimbursement of costs related to cross-border healthcare. The Directorate raised a series of questions with a view to examining whether national law complied with the provisions of Directive 2011/24 on patients' rights (Doc No 1152080).

In the letter, the Directorate referred *inter alia* to Article 7(4) of Directive 2011/24 on patients' rights which requires that the costs shall be reimbursed "*up to the level of costs that would have been assumed by the Member State of affiliation, had this healthcare been provided in its territory...*". The Norwegian Government was invited to explain why the relevant administrative circular required that, in case of cross-border healthcare, only 80 of what was referred to as the "DRG price" would be reimbursed (diagnosis-related groups).

Moreover, the Directorate raised questions pertaining to national law applicable to the deadlines for submitting claims for reimbursement, the requirement to have certain documents translated and the transparency and predictability of the national reimbursement process.

The Norwegian Government replied on 30 October 2020 (Doc No 1160689). With regard to the issue of reimbursement, it was explained *inter alia* that the DRG-costs were calculated as average expenses on a public hospital level and included the hospital sector's administrative expenses, preparedness expenses, emergency costs etc. Reimbursement rates based on the DRG-system as such were average costs, which would also contain expenses not solely related to the treatment of individual patients. The estimated average DRG-costs was assumed to be higher than the marginal cost of treatment.

The Norwegian Government informed the Directorate that for patients treated in other Norwegian regions than their "home region", a "guest settlement" would take place between the regional health authorities whereby the payment would amount to 80% of the estimated DRG-costs. The Norwegian Government had found it rational to use the same 20 percent deduction for treatment given in another EEA State.

In its reply, the Norwegian Government also provided extensive feedback on the other issues raised by the complaint.

By way of a letter dated 23 September 2021, the Directorate submitted a supplementary request for information (Doc No 1227746), addressing specifically the national provision whereby certain documents supporting a claim for reimbursement would have to be translated, as a main rule by a state authorised translator.

The discussion of the case should take place in light of the most recent developments and correspondence therein.

**Estimated time: 45 - 60 minutes**

Package Meeting in Norway  
28-29 October 2021

Proposal for discussion points

**Freedom of Establishment  
(Annex VIII)**

**Responsible case handler:** Ómar Berg Rúnarsson  
**Co-case handlers:** Gunnar Örn Indriðason, Jonas Nielsen,  
Rachel Harriot

*Complaint from Wizz Air against Norway (Case No 86180)*

**HYBRID MEETING - Gunnar Örn Indriðason, Jonas Nielsen and Rachel Harriot will join remotely**

The complaint was received on 22 December 2020. In essence, the complaint concerns an alleged boycott by several public law entities in Norway against an airline company, which had intended to start operating on domestic flight routes in Norway.

By letter dated 19 February 2021, the Authority sent a request for information to Norway (Doc No 1175298), where the Norwegian Government was asked, in particular, to clarify whether certain public law entities in Norway had taken actions with respect to the complainant.

Norway replied by letter dated 19 April 2021 (Doc No 1195325 / your ref. 21/1502-), where the Government confirmed, in particular, that a number of public law entities had taken measures against the complainant, for the purposes of protecting workers and the right to organise.

The Authority understands that the complainant has brought legal proceedings in Norway.

At the meeting, the Authority would like to discuss the case in light of the latest correspondence in the case and the status of the proceedings in Norway. The Authority would like to discuss this with representatives from the Ministry of Trade, Industry and Fisheries.

**Estimated time: 1 hour**

Package Meeting in Norway  
28-29 October 2021

Proposal for discussion points

**Financial services  
(Annex IX)**

**Responsible case handlers: Marta Margret Runarsdottir**  
**Co-case handlers: Ciaran Burke**

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

On 15 March 2017, the Authority issued a letter of formal notice (Doc No 817335), concluding that the assessment criteria set out in the Act of 10 April 2015 No 17 on Financial Undertakings and Financial Groups is not fully in line with the criteria introduced by Directive 2007/44/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector.

The matter was discussed at the package meeting in 2018. In December 2018, the Norwegian Government provided the Authority with information on the process (Doc No 1044795). The matter was also discussed at the package meeting in 2019, where the representatives of the Norwegian Government indicated the intention to address the issue in the context of a wider reform of the legal framework.

Following an enquiry from the Authority, the Norwegian Government informed the Authority by email received on 8 July 2020 (Doc No 1144546), that the follow-up of the case had unfortunately been delayed due to the outbreak of COVID 19 and that they would revert to the Authority in due course.

At the meeting, the Authority wishes to receive an update on any legislative measures under preparation and the estimated timeline for their entry into force.

**Estimated time: 30 minutes**

*2. Complaint concerning the incorrect application of Directive 2009/138 (Case No 85119)*

In April 2020, the Authority received a complaint against Norway concerning administrative practices relating to acquisition of holdings in insurance companies.

In the complaint it is alleged that Norway's handling of an application to increase holdings in a Norwegian insurance company from 24.9 percent to 29.9 percent entails a breach of Article 57 and 59 of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance. The complainant alleges that the

approach of the relevant Norwegian authorities entails a 25% ownership restriction on non-financial owners in insurance companies, and the handling of its case is an example of systematic and consistent administrative practices in breach of EEA law.

On 25 August 2020, the Authority sent a request for information to the Norwegian Government (Doc No 1143769), where it invited the Norwegian Government to provide information regarding the matter by 25 September 2020. By email dated 8 September 2020 (Do No 1152256), the Norwegian Government requested an extension of the deadline until 26 October 2020.

On 26 October 2020, the Authority received a reply from the Norwegian Government (Doc No 1160009).

At the meeting, the Authority wishes to discuss Norway's reply to the request for information.

**Estimated time: 30 minutes**

Package Meeting in Norway  
28-29 October 2021

Proposal for discussion points

**Free Movement of Services  
(Annex X)**

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

*Complaints against Norway concerning the reporting obligation for foreign contractors (Cases No 77290, 77291 and 78800)*

The complainants, which date from 15 and 23 April 2015 and 4 March 2016 respectively, allege that Norway is infringing EEA law by requiring the submission of specified information on all contracts concluded between Norwegian based recipients of services and providers of services from other EEA States with a value of at least a certain amount expressed in NOK at the latest within 14 days of commencement of the work in Norway ("the reporting obligation") to the Norwegian Authorities. The reporting obligation applies to Norwegian entities awarding the contract, as well as to the non-Norwegian contractors. No such reporting obligation exists where a contract is awarded to a Norwegian contractor.

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

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

Having re-examined the reporting obligation as amended and considering that it continued to restrict the free provision of services in a manner, which, in the absence of convincing evidence from Norway to the contrary, cannot be considered as justified, on 5 December 2018, the Authority issued a reasoned opinion to Norway (Doc No 864545). Norway replied to the reasoned opinion by letter of 5 April 2019 (ref. 15/1761, Doc No 1063269).

The issues in the case have been the subject of extended, constructive discussions between the Authority and the Ministry. The Authority understands that legislative changes that have been the subject of public consultation will be proposed to the Norwegian Parliament for adoption in October 2021 (in Prop. 1 LS 2020-2021).

At the meeting, the Authority would like to discuss the matter in light of previous deliberations and any forthcoming correspondence.

**Estimated time: 45 minutes**

Package Meeting in Norway  
28-29 October 2021

Proposal for discussion points

**Data Protection  
(Annex XI)**

**Responsible case handler: Ciarán Burke**

*Incorporation of the GDPR into the Norwegian legal order (Case No 82797)*

On 21 March 2019 (Doc No 1060463), Directorate informed the Norwegian Government that it had opened a case to examine the incorporation of the GDPR into the Norwegian legal order. For the purpose of this examination, the Directorate requested the Norwegian Government to provide information pertaining to several provisions of the GDPR upon which EEA States are entitled to adopted rules further elaborating upon the Regulation's provisions, as well as to complete a Table of Correspondence (ToC) highlighting any divergences from the wording of the GDPR, or instances where it has availed itself of a potential margin of discretion.

The Norwegian Government submitted its reply on 3 May 2019 (Doc No 1067669). On the same date, it further submitted a notification pursuant to Articles 51(4), 84(2), 85(3), and 88(3) GDPR (Doc No 1067673), as well as ToCs pertaining to both documents

At the meeting, the Authority's representatives would like to discuss the information submitted by Norway in the letters of 3 May 2019 and in the attached ToCs.

In particular, the Authority would like to address the following issues:

1. Norway's letter of 3 May 2019 notes that section 12 of the Personal Data Act regulates processing of inter alia means of unique identification, including biometric data. Under section 12, such means of unique identification may only be processed when there is a "reasonable need" for achieving secure identification. Could Norway please provide examples of circumstances in which such a reasonable need has been determined, and the criteria used for determining when a reasonable need may arise?
2. Norway's letter further notes that, under section 12 of the Personal Data, national identity numbers may only be processed when there is a reasonable need for achieving secure identification. Does this protection also apply, for example, to D-numbers, or to methods of identification used for individuals who are not in possession of either a national identification number or a D-number?
3. Since 2019, have further administrative regulations concerning the obligation to appoint a DPO been enacted under section 19 of the Act?
4. Norway's letter of 3 May 2019 notes that Norway has adopted a national rule reconciling the right to the protection of personal data pursuant to the GDPR with the right to freedom of expression and information, including processing for journalistic purposes and the purposes of academic, artistic or literary

expression in section 3 of the Personal Data Act. Has any litigation arisen under this provision? Please provide examples.

The Authority would further like to discuss the resources available to – and the activities of – the Norwegian DPA.

**Estimated time: 45 minutes**



Package Meeting in Norway  
28-29 October 2021

Proposal for discussion points

**Transport  
(Annex XIII)**

**Responsible case handler:**      **Kadus Basit (Item 1)**  
   **Lemonia Tsaroucha (Item 2)**

*1) Minimum safety requirements for tunnels in the Trans-European Road Network (Case No 84698)*

Directive 2004/54/EC sets out minimum safety measures relating to the infrastructure and operation of tunnels with lengths of over 500 m in the Trans-European Road Network (TERN). All tunnels shall be subject to the requirements regardless of whether the tunnels are in operation, under construction or at the design stage.

On 3 December 2020, the Authority issued a reasoned opinion (Doc No 1160732) in which the Authority held that Norway had failed to ensure that 68 tunnels complied with the minimum safety requirements of the Directive.

In its reply to the reasoned opinion dated 13 April 2021 (Doc No 1194075), the Norwegian Government informed the Authority that as of January 2021, 57 tunnels were not in full compliance with the Directive, and that this number was expected to have been reduced to 49 tunnels by the end of 2021. Of these 49 tunnels, upgrading or preparation for upgrading had started in 28 tunnels, plans for upgrading one tunnel were pending, and the remaining 20 tunnels would be replaced by new road infrastructure (construction start planned in the first six-year period of the National Transport Plan (NTP) 2022-2033. While works on these tunnels will continue to ensure compliance with the Directive, the Norwegian Government informed the Authority that compensatory risk reduction measures will be implemented and notified to the Authority.

In a letter to the Authority dated 2 July 2021 (Doc No 1211659), the Norwegian Government submitted further details concerning the TERN tunnels' compliance with the Directive and information on risk reduction measures implemented in these tunnels.

At the meeting, the Norwegian Government is invited to present to the Authority update on the plans and expected timelines for the full upgrade of the tunnels that are not yet in compliance with the Directive.

**Estimated time: 30-45 minutes**

2. *Port Reception Facilities for Ship Generated Waste – Follow-up to EFTA Court Case E-15/35 (Case 79428)*

**HYBRID MEETING - Lemonia Tsaroucha will join the meeting remotely**

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

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

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

This case was discussed at the Package Meetings in Oslo in 2018 and 2019. In all exchanges during the Package Meetings and thereafter, the Norwegian Government informed the Authority of its progress with the objective to have valid waste reception and handling plans ("WRH-plans") available for every port in Norway by the end of 2019.

In the last letter sent by the Norwegian Government on this case (Document No 1169740, your ref. 12/3573), Norway noted that, as of that date, "*a total of 2670 ports have approved a WHR plan*". It also added, in relation to the IT tool created to record compliance with the Directive that "*the goal is to open up the tool for municipalities in 2021*".

On 20 September 2021, the Authority asked Norway to provide up-to-date information on the implementation of Directive 2000/59/EC, including relevant numbers of ports with an approved WRH plan, and a status update on the IT tool (Document No 1227950).

At the meeting, the Authority would like to obtain a clear overview of the implementation status of the Norwegian Government's plan.

**Estimated time: 15 minutes (Virtual Meeting)**

**Free movement of Persons  
Article 28**

**Free movement of Services  
Article 36**

**Responsible case handler:      Ciarán Burke**

*Own initiative case concerning Norwegian restrictions upon entry on the basis of COVID-19 (Case No 85895)*

By a request for information letter dated 24 November 2020 (Doc No 1164017), the Directorate informed the Norwegian Government that it had opened an own initiative case to investigate the application of the Regulations Amending the Covid-19 Regulations in Norway of 6 November 2020. The Norwegian Government submitted its reply on 4 January 2021 (Doc No 1171412, ref. 20/5816 - TRR).

In light of multiple subsequent changes to the Regulations, on 12 February 2021, the Authority addressed a second letter to Norway, wherein it requested additional information concerning the new regime (Doc No 1179284). The Norwegian Government was invited to submit its observations on the issues raised in the letter by 12 March 2021. The Norwegian Government replied to this letter on 10 March 2021 (Doc No 1187032, ref. 20/5816 - KKO).

In light of continuing changes to the Regulations and other legal provisions relating to entry to Norway imposed on the basis of the COVID-19 pandemic, on 26 March 2021, the Authority addressed a third letter to Norway, wherein it requested additional information concerning the effects of – and exceptions to – the revised rules (Doc No 1190825). The Norwegian Government was invited to submit its observations on the issues raised in the letter by 26 April 2021. The Norwegian Government submitted its reply on 22 April 2021 (Doc No 1196218, ref. 20/5816 - KKO).

In order to clarify the Norwegian Government's responses in its reply of 22 April 2021, and in light of evolving issues relating to the rules imposed on the basis of COVID-19, on 3 May 2021, the Authority addressed a fourth letter to Norway, wherein it requested additional information (Doc No 1196735). The Norwegian Government was invited to submit its observations on the issues raised in the letter, as well as any other information it deemed relevant, by 21 May 2021. The Norwegian Government submitted its reply on 21 May 2021 (Doc No 1202636, ref. 20/5816 - KKO).

On 26 May 2021, the Authority addressed a letter of formal notice to Norway (Doc No 1199663). Therein, the Authority concluded that Norway had failed to fulfil its obligations arising from Articles 4, 28 and 36 of the EEA Agreement, Articles 5, 6, 7, 8, 27, 28, 29, 30 and 31 of Directive 2004/38/EC, and Articles 9 and 16 of Directive 2006/123/EC. The Norwegian Government replied to the Authority's letter on 7 July 2021 (Doc No 1213206, ref. no 20/5816 – SBO). In its reply, the Norwegian Government noted that the regulations referred to in the letter of formal notice had again changed, and defended the proportionality of the remaining measures.

The Authority notes that, in view of the COVID-19 pandemic, the measures employed by the Norwegian Government have continued to evolve. As such, the Authority's representatives would like to discuss the information submitted by Norway in its letter of 7 July 2021, as well as subsequent measures enacted by Norway and related administrative and other practices. In this regard, the Authority's case no 87307 (Own initiative case concerning eligibility and procedures applicable to certain categories of EEA nationals in Norway who wish to receive a COVID-19 vaccination certificate) and its letter of 6 September 2021 (Doc No 1224350), since forwarded to the Ministry of Health, are also relevant, and will be touched upon in tandem with the main case concerning COVID measures.

**Estimated time: 1 hour**

Package Meeting in Norway  
28-29 October 2021

Proposal for discussion points

**Public Procurement  
(Annex XVI)**

**Responsible case handlers:   Frederik De Ridder  
  Rachel Harriott**

1. *Possible breach of the EEA procurement rules by the Norwegian Defence Logistics Organisation (Case No 85882)*

**HYBRID MEETING – Frederik De Ridder and Rachel Harriott will join remotely**

The case concerns certain contracts for the supply of goods to the Norwegian Defence Logistics Organisation (*Forsvarets logistikkorganisasjon* ("FLO")), which, according to media reports, may have been procured without due regard to the EEA public procurement rules. In light of these reports, the Authority sent a request for information to the Norwegian Government (Doc No 1163529).

In reply to the request for information, the Norwegian Government referred to a list of acquired goods, and stated that the FLO applied Article 123(b) EEA to all the listed procurements (Doc No 1177359, your reference 2020/982-13/FD V 3/ELCH).

In its supplementary request for information dated 4 June 2021, the Authority inquired whether the Norwegian Government was of the view that the correct procurement regime or derogation had been applied to the purchases, and to what extent it deemed time constraints relevant in that respect (Doc No 1179273).

During the meeting, the Authority would like to discuss the case in light of its most recent correspondence, particularly of the forthcoming reply of the Norwegian Government to the supplementary request for information.

**Estimated time: 30 minutes**

Package Meeting in Norway  
28-29 October 2021

Proposal for discussion points

**Labour law  
(Annex XVIII)**

**Responsible case handler:      Hrafnhildur Kristinsdóttir**

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

The complaint in this case concerns the issue whether third-country nationals sent by temporary work agencies established in other EEA States are ensured the right to work in Norway. The issue, in particular, is the requirement that a third-country national sent by an EEA company to work temporarily in Norway must be a part of the EEA company's permanent work force.

A request for information was sent on 17 August 2017 (Doc No 862303). Norway replied on 15 September 2017 (Doc No 873705 / your ref. 17/2212). The case was discussed at the package meetings in Oslo in 2017 and 2018.

By letter dated 6 September 2019 (Doc No 1084507), the Authority sent a supplementary request for information to Norway. The Norwegian Government replied on 6 October 2019 (Doc No 1091152 / your ref. 17/2212-), stating that the Ministry had decided to start an assessment of whether the Immigration Regulation Section 19-8 is compatible with Article 36 of the EEA Agreement and the relevant Directives.

The case was discussed at the package meeting in Oslo in October 2019. Norway replied to the Authority's follow-up letter on 19 December 2019 (Doc No 1105973 / your ref. 19/2823-), stating that the Ministry has decided to work on a consultation paper with the aim to amend Section 19-8 of the Immigration Regulation.

By letter dated 7 February 2020 (Doc No 1112775 / your ref. 17/2212-), the Norwegian Government stated that it was in the early stages of preparations for the consultation paper, but that the plan was to publish the consultation paper by end of the spring 2020. By letter dated 2 July 2020 (Doc No 1142718 / your ref. 17/2212-), the Norwegian Government informed the Authority of delays in the work on the consultation paper, due to the Covid-19 pandemic, and asked for the Authority's views on certain issues related to the case.

The case was discussed during the virtual package meeting in October 2020. By e-mail of 4 February 2021 (Doc No 1178050), the Internal Market Affairs Directorate of the Authority provided comments on certain aspects of the applicable EEA law and invited Norway to keep the Authority informed on the progress of the consultation paper.

On 30 July 2021, the Authority sent another supplementary request for information (Doc No 1219022), asking Norway to provide update on the process of the work on the consultation paper and an estimated time line of the way forward as soon as possible and in any event by 10 September 2021. Norway replied by letter dated 10 September 2021 (Doc No 1226311), stating that the work on the consultation paper was still under process and that it was anticipated that the paper could be published in the autumn.

At the meeting, the Authority would like to discuss the case in light of the above correspondence and be provided with an update on the work on the consultation paper and an estimated time line on the way forward.

**Estimated time: 45 minutes**

Package Meeting in Norway  
28-29 October 2021

Proposal for discussion points

**Environment  
(Annex XX)**

**Responsible case handlers:** Anne De Geeter (All 3 items),  
Ada Gimnes Jaroy (All 3 items),  
Kristine Aaland (Item 2)

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

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

The case was opened in 2017 following the submission of a complaint from 11 organisations concerning alleged breaches by Norway of the Mining Waste Directive. The Authority’s investigation of the concerns raised by the complainants prompted a broader examination of the implementation of the Mining Waste Directive into the Norwegian legal order.

The Norwegian Government has been invited to provide information on its management of mining waste on several occasions, as well as on the Norwegian legislation that implements the Mining Waste Directive. The case has been discussed at several package meetings.

Following the last discussions at the package meeting of 23 October 2020, the Authority has assessed the clarifications provided by representatives of the Norwegian Government and of the Norwegian Environment Agency. On 6 October 2021, the Authority issued to a Pre-Article 31 letter (Doc No 1193682) in which it sets out its preliminary views.

At the meeting, the Authority would like to discuss the last correspondence and the next steps for the case. The Authority welcomes the attendance of the Norwegian Environment Agency if the Norwegian Government deems it useful for the discussions.

**Estimated time: 30 minutes**

*2. Longship CCS project (Case No 85252)*

***HYBRID MEETING – Kristine Aaland will join remotely***

In the context of the Longship project, which aims at developing carbon capture and storage (“CCS”) in Norway, the Authority is in the process of preparing for its upcoming task under *Directive 2009/31/EC of the European Parliament and of the*



*Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006<sup>1</sup> ("the CCS Directive"). Pursuant to Article 10 of the CCS Directive, the Authority is tasked with reviewing draft storage permits for CCS projects in the EEA EFTA States.*

At the package meeting of 23 October 2020, representatives of the Norwegian Government gave a presentation on the Longship CCS project, including updates on the expected timeline. The Authority has further exchanged by email with the Norwegian Environment Agency on the procedures for the Authority's review.

At the meeting, the Authority would like to get an update on the expected timeline of the Longship CCS project and to discuss the upcoming process. For this, the Authority welcomes the attendance of the Norwegian Environment Agency.

The Authority has also carried out an examination of a selection of the Norwegian legislation implementing the CCS Directive and would like to invite the Norwegian Government to provide clarifications on a few questions it has identified.

**Estimated time: 45 minutes**

*3. Complaint concerning Norway's management of hazardous waste under its 2020-2025 Waste Management Plan (Case No 86541)*

On 15 March 2021, the Authority received a complaint against Norway concerning its management of hazardous waste as set out in the addendum to the revised Waste Management Plan for 2020-2025.<sup>2</sup> On 20 April 2021, the Authority sent a letter to the State informing about the new complaint (Doc No 1194336). The complaint relates, inter alia, to requirements related to waste management plans under *Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives* ("the Waste Framework Directive").

The Authority is in the process of assessing the complaint. At the meeting, the Authority would like to discuss the complaint and status of the case. The Authority welcomes the attendance of the Norwegian Environment Agency if the Norwegian Government deems it useful.

**Estimated time: 30 minutes**

---

<sup>1</sup> OJ L 140, 5.6.2009, p. 114, incorporated into the EEA Agreement at point 1a of Annex XX by decision of the EEA Joint Committee No 115/2012.

<sup>2</sup> Miljødirektoratet (01.03.2021) *Avfallsplan 2020-2025: Vedlegg om farlig avfall, inkludert avfallsforebyggingsprogram*.