

EFTA Surveillance Authority  
Rue Belliard 35

BELGIUM

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## **Support for studies abroad for EEA workers and their family members – supplementary information**

Reference is made to the Authority's request for information of 13 September 2021, and to previous correspondence in the case, in particular the Authority's reasoned opinion dated 1 April 2020 (Doc No 1110282) and the Norwegian Government's reply of 1 July 2020 (Doc No 1141624).

The Authority has invited the Norwegian Government to provide supplementary information to further assess the case.

### *Question 1*

The amendments to the second paragraph of Section 10 of the Study Financing Regulation that came into force in 2020, did not entail any substantive change to the discretionary assessment. As stated in our reply of 1 July 2020, the aim of the amendments was to better the clarity of the provision and to reduce the ambiguities as far as possible without removing the discretionary assessment. This is also described in the paper which was subject to public consultation prior to the amendments.<sup>1</sup>

### *Question 2*

The Norwegian Government has previously informed the Authority that most cases which involve the discretionary assessment regard Norwegian nationals. As stated in our letter of 1 July 2020, very few EEA-citizens have had their application denied because their connection to Norway has been considered insufficient.

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<sup>1</sup> <https://www.regjeringen.no/contentassets/1655fd96b8a14730887de0e3567a5af6/horingsnotat-forskrift-om-utdanningsstotte--tilknytningskrav.pdf>

The NSELF has found a small number of cases where an EEA-citizen has had the application assessed under the discretionary assessment in the second paragraph of Section 10. The examples are accounted for below.

We also provide examples of Norwegian nationals who have had their applications approved or denied under the second paragraph of Section 10. As the requirements of connection are the same for Norwegian nationals and EEA-nationals, we assume that the examples will be of interest to illustrate where the limit is between those who are considered to have sufficient connection to Norway and those who are not. For an EEA-national who applies as an EEA-worker or family member of an EEA-worker, the additional fact that the applicant has worked in Norway or has a family member working in Norway is also considered and may impact the result of the assessment. However, the assessments are always made on a case-by-case basis, based on the facts of the individual case.

It is not possible to account for all the facts of the examples, but the main facts and decisive factors of the assessment are mentioned in each case.

#### *Cases where the application was approved under the discretionary assessment*

- Norwegian national, born in Norway and lived in Norway until four years of age. Both parents were Norwegian nationals, all other family lived in Norway, and one brother had moved back to Norway. Had spent nearly every vacation in Norway. Had been active in the Norwegian seaman's church, had a savings account in a Norwegian bank, stated that he/she wanted to work in Norway after the education. Documented proficiency in Norwegian.
- Norwegian national, never lived in Norway. Both parents were Norwegian nationals, all other family lived in Norway. Christened and confirmed in Norway. The family had a vacation home in Norway, and had spent every summer and Christmas/New Year vacations in Norway. The father had worked mainly for Norwegian owned companies abroad. The applicant had taken various courses in Norway, e.g. in sailing, had a Norwegian certificate of boatmanship and had attended Norwegian football school during summer. Documented proficiency in Norwegian.
- Norwegian national, Norwegian father and Spanish mother. Had not lived in Norway, but spent one year at folk university college (folkehøyskole) in Norway. Father lived in Norway at time of application. Had spent vacations in Norway, planned to do national service in Norway, and had two times attended a form of summer school in Norway. Proficiency in Norwegian was not documented, but because the "folkehøyskole" teaches in Norwegian, this was considered as sufficient documentation.
- Polish national, family member of EEA-worker in Norway. Went two years to primary and lower secondary school in Norway 2011-2012 and 2012-2013. Visited his father

in Norway several times both before and after the period of school in Norway. Worked in Norway in the summer of 2018. Proficiency in Norwegian was considered sufficiently documented. Received support for education abroad from 2018-2019.

*Cases where the application was denied under the discretionary assessment*

- Estonian national, married to Norwegian national. Came to Norway in 2019, had not worked in Norway. Education in Estonia since 2020. Participation in classes in Norwegian was documented, but this was not considered sufficient to document proficiency in Norwegian.
- Dutch national, came to Norway in 2014. Application for 2015-2016 was denied due to lack of general university and college admission certification ("generell studiekompetanse") and insufficient connection to Norway. No documentation of proficiency in Norwegian. Has later received support for education in Norway.
- Polish national, came to Norway in 2015. Application for 2015-2016 was denied. The applicant had a student internship in Norway from March to September 2015, and had no documentation of proficiency in Norwegian.
- German national, came to Norway with family autumn 2016. Studied in Norway in 2016-2017, and applied for support for education abroad in 2017-2018. Support was denied because of insufficient documentation of general university and college admission certification ("generell studiekompetanse"). The applicant was informed of the possibility to provide sufficient documentation, but did not respond. The connection to Norway was not considered because of other grounds for refusal.
- Portuguese national, registered in Norway in 2016, but studied in Portugal in 2016-2017. Application for support for education abroad in 2017-2018 was denied. Married to Portuguese national and expecting a child in 2017-2018. The spouse received support for education in Portugal from 2016 to 2020.
- Czech national, lived in Norway since April 2017. Applied for support for education abroad in 2018-2019. Worked in Norway 2-5 times per week from May 2017 and temporary work as trainee at an architectural firm from February to June 2018. Stated that they had a Norwegian partner. The connection to Norway was not considered sufficient.
- Norwegian and German national (dual citizenship), with Norwegian mother and German father, never lived in Norway. No other documentation of connection to Norway besides a letter describing that the applicant feels Norwegian, eats traditional Norwegian food for Christmas and birthdays, watches Norwegian TV-shows etc. No documented stays in Norway or other circumstances indicating a connection to

Norway. Proficiency in Norwegian was documented, but this was not considered sufficient when so few other factors indicated a connection to Norway.

- Norwegian national, with Norwegian father and British mother, never lived in Norway. The applicant had visited Norway regularly, had many relatives in Norway, and the father owned property in Norway. The applicant had no proficiency in Norwegian. The connection was not considered sufficient.
- Norwegian national, Norwegian father and Spanish mother. Never lived in Norway. The father emigrated many years before the applicant was born, but had worked mostly for Norwegian companies. The applicant had spent several vacations in Norway, and had two times attended summer activities arranged by The Norwegian Sea Rescue Society. No proficiency in Norwegian was documented. Even though the applicant had some connection to Norway through vacations and the father's work for Norwegian companies, it was not considered sufficient.

#### *Cases where the applicant did not reply to questions of documentation*

- German national who had worked in a café in Norway for a shorter period of time prior to the education abroad. The NSELF informed him of the requirements for eligibility, but the applicant did not provide further information on his connection to Norway. NSELF could not find information on family members in Norway. The case was closed due to lack of information from the applicant.
- Swedish national, married to an EEA-worker in Norway with which she had a small child. NSELF asked the applicant to send documentation of proficiency in Norwegian and any other factors which could show a connection to Norway, including on where the child lived. The request was never answered, and the application was later withdrawn because the applicant had received support from the Swedish student financing agency.

#### *Question 3*

The NSELF does not use internal guidelines when assessing applications under the second paragraph of Section 10. They find the necessary guidance in the wording of the regulation, and in the preparatory works for the amendments in 2015 and in 2020. NSELF also relies on acquired experience in assessing such cases.

#### *Question 4*

Unfortunately, the NSELF does not have statistics showing rejections of applications, neither for study financing in Norway nor abroad. They can only provide statistics showing the number of approved applications. This table shows the total number of approved applications for study financing abroad:

<b>Academic year</b>	<b>Total number</b>	<b>EEA-citizens (UK not included)</b>	<b>UK citizens</b>	<b>Norwegian citizens</b>
2015-2016	18 633	473	38	18 122
2016-2017	18 039	528	42	17 469
2017-2018	17 847	620	49	17 178
2018-2019	17 431	662	46	16 723
2019-2020	16 797	742	59	15 996
2020-2021	15 350	749	53	14 548
<b>Total</b>	<b>46 144</b>	<b>1 567</b>	<b>121</b>	<b>44 456</b>

In 2016-2017, the NSELF started to register which requirement in Section 10 (previously Section 31-5) was fulfilled for each of the approved applications. However, such registration is not necessary to complete the assessment, and the quality of the data may be questioned. This table shows the available data:

<b>Fulfilled requirement</b>	<b>2016-2017</b>	<b>2017-2018</b>	<b>2018-2019</b>	<b>2019-2020</b>	<b>2020-2021</b>
EEA worker during education abroad	3	2	2	2	2
EEA worker, connection between work and education	44	36	29	22	21
Family member/child of EEA worker	186	183	204	235	251
Family member/spouse of EEA worker	9	5	8	6	9
Right of permanent residence family member	6	6	14	15	13
Right of permanent residence applicant	301	385	453	533	531
<b>Total</b>	<b>549</b>	<b>617</b>	<b>710</b>	<b>813</b>	<b>827</b>

There are several challenges in finding data for cases that have been approved under the different requirements in Section 10:

- There are several conditions that must be fulfilled for an applicant to be entitled to support for education abroad. An applicant must e.g. have general university and college admission certification ("generell studiekompetanse") and admission to an education that is or can be approved for educational support. It is not the case that only the conditions of connection to Norway in Section 10 are decisive in the

assessment of the application. Cases where there are combinations of causes for rejection are not necessarily registered. The connection to Norway is not necessarily considered if a refusal is given due to other causes.

- Cases where the applicant obviously has a strong connection to Norway are not always registered. The NSELF has probably made fewer registrations over time because of the experience they have obtained in making the assessments.
- Applicants for support for online studies in Norway must also fulfill the requirements of Section 10. The data includes these applicants who do not study abroad.

The NSELF has made some estimations for the period from 2015-2016 in connection with the questions from the Authority.

NSELF estimates that it has granted support in approximately 200 cases under the discretionary assessment in the second paragraph of Section 10, i.e. approx. 30-35 cases per academic year. The proportion of foreign nationals appears to be very low. NSELF's impression is that applicants who have rights as EEA citizens, largely meet the condition of two years of residence in Norway, and that the discretionary assessment rarely is necessary.

Cases that have been granted pursuant to the first paragraph litra b and c in Section 10 are more demanding to estimate. There seems to be an indistinct border between these cases and those that undergo a discretionary assessment. This will depend on the submitted documentation. There are very few applicants who clearly meet the requirements in litra c. NSELF estimates just under five cases per academic year. There are more applicants who receive support according to litra b, but these cases will more often result in a discretionary assessment. NSELF rarely receives sufficient documentation on primary and lower secondary education in Norway. NSELF estimates approx. 125-130 cases under litra b.

NSELF estimates that under five cases in total have been granted under litra d and e.

Regarding rejections after the discretionary assessment, the NSELF estimates approx. 60-70 rejections from 2015-2016 to 2020-2021, i.e. approx. 10-12 rejections per academic year. As mentioned above, the NSELF has examined all cases after 2015-2016 where an EEA-citizen in the application has stated that he/she has not lived in Norway for a consecutive period of two of the last five years prior to the education, and the application had not been approved. Of these cases, a total of eleven applications have been denied or not fully assessed due to insufficient connection to Norway or lack of information and documentation. Of these six cases, three applicants had dual citizenships, and had applied for support as Norwegian nationals and not on the basis of rights as an EEA-worker, frontier worker or family member of such worker.

We hope these answers provide you with adequate information in this case.

Yours sincerely

Lilly Sofie Ottesen  
Deputy Director General

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Specialist Director

*This document is signed electronically and has therefore no handwritten signature*