



**ROYAL NORWEGIAN MINISTRY OF  
TRADE, INDUSTRY AND FISHERIES**

EFTA Surveillance Authority (ESA)/EFTAs  
overvåkningsorgan  
Rue Belliard 35  
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BELGIUM

Your ref

Our ref

Date

19/1293-5

30 October 2019

**Request for information - the EFTA Authority's application of the new procedural regulation**

In the context of the modernisation of the state aid rules, Regulation (EC) No 659/1999 was amended by Regulation (EU) no. 734/2013 and Regulation (EU) 2015/1589 ("the new procedural regulation"), to improve the effectiveness of state aid control. The amendment sought in particular to facilitate a more effective complaint handling by the Commission. Moreover, it introduced powers for the Commission to request information directly from market participants and to conduct investigations into sectors of the economy and aid instruments. In addition, it provided the Commission with the power to impose fines or periodic penalty payments upon undertakings which do not comply with the Commission's request for information.

An implementation of the new procedural regulation into the EEA Agreement and the Surveillance and Court Agreement (SCA), will provide the EFTA Surveillance Authority (the Authority) with the same enhanced investigation powers as the Commission. Moreover, it will provide the Authority with the same possibility as the Commission to reject complaints which do not fulfil certain minimum requirements, or which are submitted by parties without a justified legal interest.

Article 7 of the new procedural regulation provides a legal basis for the Commission to request information from sources other than the national authorities. The Ministry of Trade, Industry and Fisheries (the Ministry) takes the position that a more efficient state aid control, as prescribed by the new procedural regulation, is beneficial to Norwegian undertakings which operate on the internal market. The Ministry presupposes that the Authority will use its new investigative powers in the same limited way as the Commission, i.e. after the initiation of the formal investigation procedure in complex cases, and not in local cases ("big on big,

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small on small"), in accordance with the wording of the regulation and the stipulation in the EEA Agreement Article 62, cf. Protocol 26 to the EEA Agreement. However, in order to facilitate the implementation of the new procedural regulation into the EEA Agreement, the SCA and Norwegian law, the Ministry would appreciate if the Authority could confirm this assumption.

In the same vein, it would be highly appreciated if the Authority could elaborate on its understanding of the new rules on complaint handling. To be more specific, the Ministry would appreciate if the Authority could indicate the share of complaints that could have been rejected by the Authority if the new procedural regulation had been implemented in the EEA Agreement in 2014.

We welcome the Authority's reply within 4 November 2019.

Yours sincerely

Monica Wroldsen  
Director

Nina Gjerde Nettum  
Senior Adviser

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