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⁽¹⁾ Text with EEA relevance

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

COUNCIL

Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on the Work Plan for Culture 2011-2014

(2010/C 325/01)

THE COUNCIL OF THE EUROPEAN UNION AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL,

1. Recalling the objectives assigned to the European Union in the field of culture by Article 167 of the Treaty on the Functioning of the European Union;
2. Recalling the Resolution of the Council of 16 November 2007 on a European Agenda for Culture⁽¹⁾ and its strategic objectives, namely the promotion of cultural diversity and intercultural dialogue, the promotion of culture as a catalyst for creativity in the framework of the Lisbon strategy for growth, employment, innovation and competitiveness, and the promotion of culture as a vital element in the Union's international relations;
3. Having regard to the Commission Report of 19 July 2010 on the implementation of the European Agenda for Culture⁽²⁾ and the accompanying Staff Working Document⁽³⁾;
4. Convinced that culture can contribute to the achievement of the objectives of Europe 2020, a strategy for smart, sustainable and inclusive growth⁽⁴⁾;
5. Considering that the Council Work Plan for Culture 2008-2010, in particular through its use of the open method of coordination (OMC), constituted a new and important stage in the development of Member State cooperation on culture, improving the coherence and visibility of European action in this field, while underlining the horizontal role of culture;
6. Taking note of the results of the work carried out in the framework of the Council Work Plan for Culture 2008-2010

and notably the identification and sharing of good practices by the working groups established by the Member States as well as the recommendations of these groups;

7. Sharing the view that the work plan in Annex I should draw on this work and the resulting recommendations and cover a period of four years, allowing for a mid-term review,

AGREE:

- To adopt, with due regard for the principle of subsidiarity, the Work Plan 2011-2014 as set out in Annex I as well as the principles relating to the setting up and functioning of the working groups established by the Member States as set out in Annex II,
- To establish working groups composed of experts nominated by the Member States on the basis of the principles and mandates defined in Annexes I and II and to follow their work,
- To pursue the priority areas of the Work Plan as set out in Annex I:
 - Priority area A: Cultural diversity, intercultural dialogue and accessible and inclusive culture;
 - Priority area B: Cultural and Creative Industries;
 - Priority area C: Skills and mobility;
 - Priority area D: Cultural heritage, including mobility of collections;
 - Priority area E: Culture in External Relations;
 - Priority area F: Culture Statistics.

⁽¹⁾ OJ C 287, 29.11.2007, p. 1.

⁽²⁾ COM(2010) 390 final.

⁽³⁾ SEC(2010) 904.

⁽⁴⁾ European Council Conclusions, 17 June 2010 (EUCO 13/1/10 REV 1).

These priority areas will focus on the achievement of concrete and useable results, in particular as regards the working groups.

INVITE THE COMMISSION AND THE MEMBER STATES TO:

- regularly consult and inform the stakeholders on the progress of the Work Plan, the results achieved and the implementation of the recommendations of the working groups in order to ensure the relevance and visibility of the activities,
- undertake a mid-term review of the implementation of the Work Plan with a view to possible adaptations or reorientation in the light of results achieved and policy developments at EU level,

INVITE THE COMMISSION AND THE PRESIDENCIES OF THE COUNCIL TO:

- update the Member States on initiatives in other policy areas of the Commission and/or the Council impacting on culture,

INVITE THE PRESIDENCIES OF THE COUNCIL TO:

- take into account, in the context of the trio Presidency, the Work Plan priorities when developing their programme, to report on the implementation of the Work Plan and to build upon the results achieved,
- in particular, organise, when appropriate:
 - a meeting of senior officials of Ministries of Culture with a view to discussing and taking up the results obtained in the Work Plan,

- a joint informal meeting of senior officials of Ministries of Culture and senior officials responsible for culture in Ministries of Foreign Affairs, with a view to developing a strategic approach to culture in external relations and enhancing cooperation in this field,

- consider organising, in the context of the implementation of the Work Plan, meetings of senior officials of Ministries of Culture and senior officials from other policy domains,

INVITE THE COMMISSION TO:

- regularly inform, on the one hand, the Member States of the work of the civil society structured dialogue platforms and, on the other, inform these platforms of the work carried out in the context of the Work Plan,
- organise an annual meeting with candidate countries, members of the European Free Trade Association and other countries participating in the Culture programme, in order to inform them of the work carried out in the context of the Work Plan and to allow a discussion with Member States, the chairs of the working groups and the Commission,
- adopt, before the end of the first half of 2014 and on the basis of voluntary contributions from Member States, a final report on the implementation and relevance of the Work Plan. This report will be the basis for the preparation of the next Work Plan during the second half of 2014,

WELCOME

The intention of the Commission to support Member States' actions in implementing the Work Plan as set out in Annex I.

Priority Area A: Cultural diversity, intercultural dialogue and accessible and inclusive culture

European Agenda for Culture — Promotion of cultural diversity and intercultural dialogue (strategic objective 1)
Europe 2020 — inclusive growth (priority 3)

Actions by	Topics	Instruments and working methods	Target outputs and indicative timeline
Member States	<p>Topic No 1: The role of public arts and cultural institutions in the promotion of:</p> <p>(i) better access to and wider participation in culture</p> <p>(ii) cultural diversity and intercultural dialogue</p>	<p>Working group of Member State experts (OMC) ⁽¹⁾.</p> <p>Experts will identify policies and good practices of public arts and cultural institutions to promote better access to and wider participation in culture, including by disadvantaged groups and groups experiencing poverty and social exclusion ⁽²⁾.</p> <p>Experts will identify policies and good practices in creating spaces in public arts and cultural institutions to facilitate exchanges among cultures and between social groups, in particular by highlighting the intercultural dimension of the heritage and by promoting artistic and cultural education and developing intercultural competences.</p>	<p>2011-2012 Identification of policies and good practice manual for public arts and cultural institutions.</p> <p>2012-2013 Identification of policies and good practice manual for public arts and cultural institutions.</p>
Member States	<p>Topic No 2: Development of the key competence 'Cultural awareness and expression' ⁽³⁾</p>	<p>Working group of Member State experts (OMC) ⁽¹⁾</p> <p>Experts ⁽⁴⁾ will identify good practices for the development of this key competence and its integration into education policies, on the basis of knowledge and attitudes identified in the Recommendation of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning ⁽⁵⁾.</p>	<p>2013-2014 Good practice manual for culture and education authorities at national and European level.</p>
Commission	Promotion of culturally inclusive cities	The Commission will identify good practices and instruments to promote culturally inclusive cities, building on the results of projects co-funded by the EU on management of diversity in cities ⁽⁶⁾ .	2011 onwards. Identification of good practices.
Commission	Promotion of multilingualism	Study on the potential of subtitling to encourage foreign language learning: the study aims to assess the way(s) and degree to which the use of subtitles encourages and facilitates foreign language learning and contributes to the mastery of foreign languages, thereby leading to a more language-friendly environment, notably by highlighting the cultural dimension.	Final report expected during second quarter of 2011.

⁽¹⁾ The principles relating to the setting up and functioning of the working groups can be found in Annex II.

⁽²⁾ See also Council conclusions of 18 November 2010 on the role of culture in combating poverty and social exclusion (15448/10).

⁽³⁾ Building on the June 2010 recommendations of the OMC Working Group on developing synergies with education, especially arts education (Work Plan for Culture 2008-2010).

⁽⁴⁾ The composition of the group will be a key factor in ensuring that its results can be taken up in the context of a future work cycle under the ET 2020 (strategic framework for European cooperation in education and training); the participation of experts from ministries of education will therefore be recommended. The group will be supported by relevant Commission services.

⁽⁵⁾ OJ L 394, 30.12.2006, p. 10.

⁽⁶⁾ Including Intercultural Cities (co-funded by the Culture Programme), OPEN Cities (co-funded by Urbact II) and CLIP (Cities for Local Integration Policies — co-funded by Eurofound) network.

Priority Area B: Cultural and Creative Industries (CCIs)

*European Agenda for Culture — Promotion of culture as a catalyst for creativity (strategic objective 2)
Europe 2020 — smart and sustainable growth (priorities 1 and 2)*

Actions by	Topics	Instruments and working methods	Target outputs and indicative timeline
Member States	Topic No 1: Strategic use of EU support programmes, including structural funds, to foster the potential of culture for local and regional development and the spill-over effects of CCIs on the wider economy	Working group of Member State experts (OMC) ⁽¹⁾ . Experts will identify, compare and model good practices in this field for the attention of both managing authorities and cultural sector operators, including in particular CCIs, building on the Council conclusions of 10 May 2010 ⁽²⁾ and on the study on culture's contribution to regional and local development. Experts will also examine the spill-over effects of the CCIs on the wider economy, particularly in terms of innovation, and the potential for making better use of EU support programmes to foster these effects.	2011 Policy handbook. Reflection on a joint EU-wide awareness raising initiative by the Commission and Member States to promote the integration of culture in regional and local development policies and to support smart specialisation strategies.
Member States	Topic No 2: CCI export and internationalisation support strategies	Working group of Member State experts (OMC) ⁽¹⁾ . Experts will identify good practices on export and internationalisation support for CCIs.	2012-2013 Good practice manual.
Member States	Topic No 3: Good practices on financial engineering for SMEs in cultural and creative sector	Working group of Member State experts (OMC) ⁽¹⁾ . Experts will develop a manual for the attention of both CCIs funding providers and the users of funds, based on an analysis of existing funding mechanisms and tax measures prepared by two EC-commissioned studies ⁽³⁾ . This work will take into account other actions launched in this field at European level as announced in the Commission Green Paper 'Unlocking the potential of cultural and creative industries' ⁽⁴⁾ .	2013-2014 Good practice manual with case studies.
Commission	Follow-up to the Green Paper 'Unlocking the potential of cultural and creative industries'	The Commission will examine the results of the public consultation and will publish by the end of 2010 an analysis of the contributions received with a view to proposing during the first semester of 2011 an initiative on the promotion of, and support for, CCIs.	2011 onwards.
Commission	Establishment of the 'European Creative Industries Alliance'	The Commission will establish the 'European Creative Industries Alliance', based on close collaboration between its services, including Enterprise DG.	2011 onwards.
Commission	Promotion of cultural tourism as a driver for sustainable social and economic development	In the context of the Commission Communication on the new policy context for tourism in Europe ⁽⁵⁾ , the Commission will establish close collaboration between its services, including Enterprise DG, in order to promote the development of cultural tourism and related industries and to identify good practices in sustainable management of cultural tourism, including tangible and intangible heritage, in an integrated regional development strategy.	2011 onwards.

⁽¹⁾ The principles relating to the setting up and functioning of the working groups can be found in Annex II.

⁽²⁾ Council conclusions of 10 May 2010 on the contribution of culture to local and regional development (OJ C 135, 26.5.2010, p. 15).

⁽³⁾ 'The entrepreneurial dimension of the cultural and creative industries', Utrecht School of the Arts, October 2010, and 'Access to finance activities of the European Creative Industry Alliance', Jenny Tooth, January 2010.

⁽⁴⁾ COM(2010) 183 final.

⁽⁵⁾ COM(2010) 352 final.

Priority Area C: Skills and mobility

*European Agenda for Culture — Promotion of cultural diversity and intercultural dialogue and promotion of culture as a catalyst for creativity (strategic objectives 1 and 2)
Europe 2020 — smart, sustainable and inclusive growth (priorities 1, 2 and 3)*

Actions by	Topics	Instruments and working methods	Target outputs and indicative timeline
Member States	Topic No 1: Mobility support programmes	Working group of Member State experts (OMC) ⁽¹⁾ . Experts will screen and assess mobility support programmes and schemes in order to identify barriers and problems faced in particular by small-scale culture operators and by young artists and culture professionals, building on the 2008 'Mobility Matters' study. Experts will also identify good practices to overcome these difficulties.	2011-2012 Screening results, identification of barriers and good practices.
Member States	Topic No 2: Promotion of creative partnerships ⁽²⁾	Working group of Member State experts (OMC) ⁽¹⁾ . Experts will identify and model the types of successful partnerships and practices, including their positive impacts.	2012-2013 Policy handbook. Reflection on a joint EU-wide initiative by the Commission and by national, regional and local partners in the Member States, to encourage creative partnerships.
Member States	Topic No 3: Artists' residencies	Working group of Member State experts (OMC) ⁽¹⁾ Experts will identify the success factors in preparing, carrying out and following up artists' residencies with a specific focus on building capacity and on the goal of reducing imbalances in incoming/outgoing residencies. The good practices identified should help build capacity both inside the EU and when developing residencies in third countries, as well as facilitating networking at EU level.	2013-2014 Good practice manual on preparing, organising and following-up residencies, establishing networks and support mechanisms.
Commission	Identification and development of skills through culture sector councils ⁽³⁾	The Commission will explore, based on close collaboration between its services, including Employment and Social Affairs DG, the possibilities of establishing culture sector councils at EU-level. These councils will support development of policies in the sector concerned by providing analysis of likely developments on the sectoral labour market and by better meeting the skills needs of this sector.	2011 onwards. Exchange of information and good practices.
Commission	Promotion of media literacy	Study on media literacy: the study will test and refine criteria to assess media literacy levels in all Member States, in accordance with the requirement in the Audiovisual Media Services Directive ⁽⁴⁾ for the Commission to report on media literacy levels in Member States.	2010-2011
Commission	Further development of proposals for information standards in the field of mobility	A Commission-convened expert group will develop proposals for information standards on the basis of the recommendations produced in June 2010 by the OMC Working Group on mobility of culture professionals (Work Plan for Culture 2008-2010). The Commission will submit a proposal for a Council Recommendation on Mobility Information Services in 2011.	2011 Detailed proposal of information and advice service content and standards.

Actions by	Topics	Instruments and working methods	Target outputs and indicative timeline
Commission	Analysis of administrative practices on artists' mobility (including visa, tax, social security)	The Commission will organise thematic seminars bringing together Member States' authorities, Commission services and 'end users' and will facilitate exchange of information and of good practices.	2011-2014 Good practice manual for national authorities.

(¹) The principles relating to the setting up and functioning of the working groups can be found in Annex II.

(²) 'Creative partnerships' between culture and sectors such as education and training, business, research or the public sector, help transfer creative skills from culture into other sectors.

(³) Sector councils on employment and skills at EU-level are composed of key stakeholders of a particular economic sector including representatives from trade unions and employer organisations, members of education and training systems as well as other actors such as those involved in economic development.

(⁴) OJ L 95, 15.4.2010, p. 1.

Priority Area D: Cultural heritage including mobility of collections

European Agenda for Culture — Promotion of cultural diversity and intercultural dialogue (strategic objective 1)

Europe 2020 — sustainable and inclusive growth (priorities 2 and 3)

Actions by	Topics	Instruments and working methods	Target outputs and indicative timeline
Member States	Examination of ways and means to simplify the process of lending and borrowing	Working group of Member State experts (OMC) (¹). Experts will identify good practices on all relevant issues in the context of mobility of collections.	2011-2012 Toolkit (including good practice guidelines, templates and 'user guides') on state indemnity provision. Good practice manual for national authorities on other relevant issues.
Member States and Commission	Follow-up to the digitisation of cultural heritage, including film heritage	The Commission's Reflection Group (<i>comité des sages</i>) will by end 2010 present recommendations for the digitisation, online accessibility and preservation of Europe's cultural heritage in the digital age. Member States' Expert Group on Digitisation and Digital Preservation will continue its work on issues related to governance and financing of Europeana post-2013.	Report by end 2010, follow-up in 2011. 2011-2012
		The Commission will propose by 2012 a sustainable model for financing Europeana in accordance with the Digital Agenda for Europe (²) and its key action 15 and with the Council conclusions of 10 May 2010 on Europeana: next steps (³). Cinema Experts Group (sub-group Film Heritage) will exchange best practices in relation to the follow-up to the Council conclusions of 18 November 2010 on European Film Heritage, including the challenges of the Digital Era (⁴).	2012 2011 onwards.
Member States and Commission	Implementation of the European Heritage Label Decision (⁵)	The Commission will prepare the application form and guidelines to assist with the selection and monitoring procedures in close cooperation with the European panel. First selections of sites under the transitional procedure.	2011-2012 2013-2014

Actions by	Topics	Instruments and working methods	Target outputs and indicative timeline
Commission	Prevention of and fight against illicit trafficking of cultural goods	Following the outcome of the ongoing study on prevention and fight against illicit trafficking of cultural goods (report expected mid-2011), the Commission will intensify collaboration between its services. Commission-convened expert group(s) ⁽⁶⁾ , in cooperation with the Member States, may propose a toolkit including European good practice guidelines and a code of ethics on due diligence in the fight against illicit trafficking and theft, building upon existing documents and codes, and considering relevant EU instruments in this area.	2012-2013 Toolkit on fight against illicit trafficking and theft.
Commission	Analysis of systems for valuation of works of art	Comparative research on systems for valuation of works of art will be conducted for insurance, state indemnity and share liability purposes.	Report by 2012.

⁽¹⁾ The principles relating to the setting up and functioning of the working groups can be found in Annex II.

⁽²⁾ COM(2010) 245 final/2.

⁽³⁾ OJ C 137, 27.5.2010, p. 19.

⁽⁴⁾ 14711/10.

⁽⁵⁾ Subject to the adoption of the Decision of the European Parliament and of the Council establishing a European Union action for the European Heritage Label.

⁽⁶⁾ As a combination of expertise is essential in this field, the group will consist of experts from ministries of culture, museums, judicial authorities, customs authorities and law enforcement agencies.

Priority Area E: Culture in external relations

European Agenda for Culture — Promotion of culture as a vital element in the Union's international relations (strategic objective 3)

Europe 2020 — Deploying our external policy instruments

Actions by	Topics	Instruments and working methods	Target outputs and indicative timeline
Member States and Commission	Development of a strategic approach and cooperation	The Presidencies of the Council are invited to organise, when appropriate, a joint informal meeting between senior officials of Ministries of Culture and senior officials responsible for culture in Ministries of Foreign Affairs, with a view to developing a strategic approach to culture in external relations and enhancing cooperation in this field. The senior officials will themselves define the calendar of work, topics to explore and target outputs.	2011-2014
	Development of information sharing tools	Following the May 2010 Mallorca meeting of DGs for Culture in Ministries of Foreign Affairs, the Commission will provide a web space for information sharing, based on the agreed template. Member States and the Commission will keep their content regularly updated, so that this material can be a basis for practical cooperation and discussion.	Set-up information tool in 2011.
Member States and Commission	Promotion of ratification and implementation of the UNESCO Convention on the protection and the promotion of the diversity of cultural expressions	Further promote the ratification of the Convention and of its objectives in relations with third countries. Continue implementing the Convention and include its objectives in relevant European and national policies.	Ongoing.

Actions by	Topics	Instruments and working methods	Target outputs and indicative timeline
Commission	Promotion of cultural relations with third countries	The Commission will convene expert groups, when necessary, to feed into work on a specific issue and to facilitate the definition of strategies regarding the cultural relations with third countries. These groups ⁽¹⁾ will be notably invited to address specific tasks on a regional basis, e.g. Culture in the Neighbourhood (Euromed, Eastern Partnership, Danube Region etc.), Culture in emerging economies, Culture and development.	From 2011 as necessary.

⁽¹⁾ As appropriate, other EC services will be closely associated with these tasks.

Priority Area F: Culture statistics

Actions by	Topics	Instruments and working methods	Target outputs and indicative timeline
Member States and Commission	Improvement of methodologies for culture statistics	The end 2011 report of the ESS-Net on cultural statistics will be the basis for discussion of take-up of recommendations, future priorities and working methods.	2012 onwards. Proposal for a methodological framework.
Commission	Improvement of information on culture statistics	New edition of Eurostat 'pocket book' on culture statistics.	Publication in 2011.
Commission	Improvement of mobility statistics	A Commission-convened expert group ⁽¹⁾ will propose a shared 'sampling' approach to collecting data on the mobility of artists and culture professionals.	2012-2013 Toolkit for culture administrations and institutions on how to 'sample' data on mobility.

⁽¹⁾ The group will include members of ESSnet and representatives of relevant pilot projects.

ANNEX II

Principles relating to the setting up and functioning of the working groups established by the Member States in the framework of the Work Plan for Culture 2011-2014

- The participation of Member States in the work of the groups is voluntary and Member States can join them at any time.
 - Each Member State interested in participating in the work of the groups will nominate an expert as a member of a working group. The Member State will ensure that the nominated expert has practical experience in the relevant field at national level and will ensure effective communication with competent national authorities. The Commission will coordinate the nomination exercise. In order to identify the most suitable expert profile for each theme, the Member States may nominate, if necessary, a different expert for each thematic area.
 - The groups are to address successively the objectives defined in the Work Plan, complying as far as possible with the timeline identified in Annex I.
 - The definition and timeline for the objectives may be revised during the mid-term review in the light of results achieved and policy developments at EU level.
 - Each working group will be responsible for appointing its chair or co-chairs for each thematic area among its priorities.
 - Each working group can decide to invite independent experts from other fields to contribute to the work of the group.
 - Each working group can decide to invite representatives of the civil society structured dialogue platforms to take part in its work on specific topics as needed.
 - The chairs of the working groups will report as necessary to the Cultural Affairs Committee on the progress of work in the respective working groups. The Cultural Affairs Committee will be given an opportunity to give guidance to the working groups in order to guarantee the desired outcome and the coordination of the groups' work.
 - For each objective mentioned in Annex I, the groups will submit a report on the work carried out, containing concrete and useable results. Depending on the objective, these results may take the form of a good practice manual, a policy handbook or recommendations for action. The reports may also recommend the development of any relevant instrument, in any appropriate form, which may be used by the Commission or by the Member States.
 - The meeting agendas and minutes of all groups will be available to all Member States, irrespective of their degree of participation in a given area. The reports of the groups will be published.
 - The Commission will provide logistical and secretarial support to the work of the groups. As far as possible, it will support the groups by other suitable means (including studies relevant to their field of work).
 - The above reports will feed into the final report by the Commission on the implementation of the Work Plan.
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EUROPEAN COMMISSION

Interest rate applied by the European Central Bank to its main refinancing operations ⁽¹⁾:

1,00 % on 1 December 2010

Euro exchange rates ⁽²⁾

1 December 2010

(2010/C 325/02)

1 euro =

Currency		Exchange rate	Currency		Exchange rate
USD	US dollar	1,3115	AUD	Australian dollar	1,3615
JPY	Japanese yen	110,37	CAD	Canadian dollar	1,3360
DKK	Danish krone	7,4528	HKD	Hong Kong dollar	10,1864
GBP	Pound sterling	0,83930	NZD	New Zealand dollar	1,7589
SEK	Swedish krona	9,1540	SGD	Singapore dollar	1,7176
CHF	Swiss franc	1,3178	KRW	South Korean won	1 508,78
ISK	Iceland króna		ZAR	South African rand	9,2045
NOK	Norwegian krone	8,0600	CNY	Chinese yuan renminbi	8,7390
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,4243
CZK	Czech koruna	24,961	IDR	Indonesian rupiah	11 812,03
EEK	Estonian kroon	15,6466	MYR	Malaysian ringgit	4,1338
HUF	Hungarian forint	280,45	PHP	Philippine peso	57,184
LTL	Lithuanian litas	3,4528	RUB	Russian rouble	41,2445
LVL	Latvian lats	0,7097	THB	Thai baht	39,443
PLN	Polish zloty	4,0202	BRL	Brazilian real	2,2349
RON	Romanian leu	4,2973	MXN	Mexican peso	16,2214
TRY	Turkish lira	1,9610	INR	Indian rupee	59,4664

⁽¹⁾ Rate applied to the most recent operation carried out before the indicated day. In the case of a variable rate tender, the interest rate is the marginal rate.

⁽²⁾ Source: reference exchange rate published by the ECB.

**Commission notice on current State aid recovery interest rates and reference/discount rates for the
27 Member States applicable as from 1 December 2010**

*(Published in accordance with Article 10 of Commission Regulation (EC) No 794/2004 of 21 April 2004
(O) L 140, 30.4.2004, p. 1))*

(2010/C 325/03)

Base rates calculated in accordance with the communication from the Commission on the revision of the method for setting the reference and discount rates (O) C 14, 19.1.2008, p. 6). Depending on the use of the reference rate, the appropriate margins have still to be added as defined in this communication. For the discount rate this means that a margin of 100 basispoints has to be added. The Commission Regulation (EC) No 271/2008 of 30 January 2008 amending the implementing Regulation (EC) No 794/2004 foresees that, unless otherwise provided for in a specific decision, the recovery rate will also be calculated by adding 100 basis points to the base rate.

Modified rates are indicated in bold.

Previous table published in O) C 265, 30.9.2010, p. 5.

From	To	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK
1.12.2010	31.12.2010	1,45	1,45	4,15	1,45	2,03	1,45	1,88	1,85	1,45	1,45	1,45	1,45	5,97	1,45	1,45	2,85	1,45	3,15	1,45	1,45	4,49	1,45	7,82	1,38	1,45	1,45	1,35
1.10.2010	30.11.2010	1,24	1,24	4,15	1,24	2,03	1,24	1,88	2,27	1,24	1,24	1,24	1,24	5,97	1,24	1,24	2,85	1,24	3,99	1,24	1,24	4,49	1,24	7,82	1,38	1,24	1,24	1,35
1.9.2010	30.9.2010	1,24	1,24	4,15	1,24	2,03	1,24	1,88	2,27	1,24	1,24	1,24	1,24	5,97	1,24	1,24	2,85	1,24	3,99	1,24	1,24	4,49	1,24	7,82	1,18	1,24	1,24	1,35
1.8.2010	31.8.2010	1,24	1,24	4,92	1,24	2,03	1,24	1,88	2,27	1,24	1,24	1,24	1,24	5,97	1,24	1,24	2,85	1,24	3,99	1,24	1,24	4,49	1,24	7,82	1,18	1,24	1,24	1,35
1.7.2010	31.7.2010	1,24	1,24	4,92	1,24	2,03	1,24	1,88	2,27	1,24	1,24	1,24	1,24	5,97	1,24	1,24	2,85	1,24	3,99	1,24	1,24	4,49	1,24	7,82	1,02	1,24	1,24	1,35
1.6.2010	30.6.2010	1,24	1,24	4,92	1,24	2,03	1,24	1,88	2,77	1,24	1,24	1,24	1,24	5,97	1,24	1,24	3,45	1,24	4,72	1,24	1,24	4,49	1,24	7,82	1,02	1,24	1,24	1,16
1.5.2010	31.5.2010	1,24	1,24	4,92	1,24	2,03	1,24	1,88	2,77	1,24	1,24	1,24	1,24	5,97	1,24	1,24	4,46	1,24	6,47	1,24	1,24	4,49	1,24	7,82	1,02	1,24	1,24	1,16
1.4.2010	30.4.2010	1,24	1,24	4,92	1,24	2,39	1,24	1,88	3,47	1,24	1,24	1,24	1,24	5,97	1,24	1,24	5,90	1,24	8,97	1,24	1,24	4,49	1,24	9,92	1,02	1,24	1,24	1,16
1.3.2010	31.3.2010	1,24	1,24	4,92	1,24	2,39	1,24	1,88	4,73	1,24	1,24	1,24	1,24	7,03	1,24	1,24	7,17	1,24	11,76	1,24	1,24	4,49	1,24	9,92	1,02	1,24	1,24	1,16
1.1.2010	28.2.2010	1,24	1,24	4,92	1,24	2,39	1,24	1,88	6,94	1,24	1,24	1,24	1,24	7,03	1,24	1,24	8,70	1,24	15,11	1,24	1,24	4,49	1,24	9,92	1,02	1,24	1,24	1,16

NOTICES CONCERNING THE EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY

Invitation to submit comments pursuant to Article 1(2) in Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice on state aid with regard to sale of certain buildings at the Inner Camp at Haslemoen Leir

(2010/C 325/04)

By means of Decision No 96/10/COL of 24 March 2010, reproduced in the authentic language on the pages following this summary, the EFTA Surveillance Authority initiated proceedings pursuant to Article 1(2) in Part I of Protocol 3 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice. The Norwegian authorities have been informed by means of a copy of the decision.

The EFTA Surveillance Authority (the Authority) hereby gives the EFTA States, EU Member States and interested parties notice to submit their comments on the measure in question within one month from the publication of this notice to:

EFTA Surveillance Authority
Registry
Rue Belliard 35
1040 Bruxelles/Brussel
BELGIQUE/BELGIË

The comments will be communicated to the Norwegian authorities. Confidential treatment of the identity of the interested party submitting the comments may be requested in writing, stating the reasons for the request.

SUMMARY

Procedure

By letter dated 5 February 2007, the Authority received a complaint regarding the sale of 29 buildings at the Inner Camp at the military camp called Haslemoen Leir by the Municipality of Våler to Haslemoen AS. By letters dated 25 May 2007 and 14 November 2007, the Authority requested information from the Norwegian authorities.

By letters dated 6 July 2007 and 21 December 2007, the Norwegian authorities replied to the information requests.

Assessment of the measure

The Authority notes that no separate valuation of the 29 buildings purchased by Haslemoen AS was carried out for the purpose of the sale. Furthermore, no explanation or information has been presented to the Authority as to why the sales price of NOK 4 million corresponded to market value.

However, the property in question had shortly before been transferred from the Norwegian state to Våler Municipality and it follows from the Authority's guidelines on sale of land that, to the extent a preceding sales process has determined the market value, a public authority may use its primary cost as an indication for the market value unless a significant period of time has elapsed between the purchase and the sale of the land ⁽¹⁾.

⁽¹⁾ Section 2.2.d) of the Authority's Guidelines on sale of land and buildings, 'Cost to the Authorities'.

Thus, in the present case two questions arise. First whether the preceding transaction between the state and Våler Municipality was carried out on market terms. Second, if it did, whether Våler Municipality subsequently sold the property to Haslemoen AS for a price corresponding at least to its primary cost.

As regards the first question the Authority considers that there was great uncertainty about the market value of the properties in question in the negotiations between the state and Våler Municipality. This is illustrated by the gap between the first Agdestein report, which estimated the value of the Inner camp at NOK 39 million (NOK 29 million if sold en bloc) and the second assessment by Alhaug and Bakke, which considered the value to be 0.

In the view of the Authority, this gap illustrates the uncertainty inherent in an assessment of this type of land, namely a former military camp with old buildings, both residential housing and other buildings such as a cinema and sports facilities, located in a remote area. The Norwegian Government and Våler Municipality agreed to ask the first value assessor to re-examine the conclusions reached under the first Agdestein report. The second Agdestein report estimated a new value for the property based on the average of the sum of the two previous reports ('bridge value') and adjusted it accordingly.

The question arises however whether the municipality sold the 29 buildings in the Inner camp to Haslemoen AS for a price corresponding at least to its primary cost.

The 'bridge value' in the second Agdestein Report, adjusted for various reasons, concluded that the value was NOK 12,4 million for all the buildings at the Inner Camp. If one applies the bridge value method to the 29 buildings in question, the value seems to amount to NOK 11 920 000 (23 840 000/2). This amount is substantially higher than the actual sales price of NOK 4 million.

The Norwegian authorities have argued that the price of NOK 4 million paid by Haslemoen AS for the buildings reflects the market value after taking into account (i) the price Våler Municipality initially paid when it purchased the entire Haslemoen Leir, (ii) the value of an oral offer made for some of the remaining buildings in the Inner Camp, and (iii) the estimated value of other buildings in the Inner Camp that Våler Municipality will keep.

As for the alleged oral offer, the Authority notes that to its knowledge no agreement has been concluded. Moreover, the Authority has not received any documentation for such an offer.

Furthermore, the Authority has doubts that the rebates granted to Våler Municipality when the property was initially bought should be applicable to the sale of the buildings to Haslemoen AS.

It follows from the above that the Authority has doubts as to whether the NOK 4 million that Haslemoen AS paid for acquiring the 29 buildings at the Inner Camp from Våler Municipality represented the market value.

Conclusion

In the light of the foregoing considerations, the Authority decided to open the formal investigation procedure in accordance with Article 1(2) of the EEA Agreement. Interested parties are invited to submit their comments within one month from publication of this Decision in the *Official Journal of the European Union*.

EFTA SURVEILLANCE AUTHORITY DECISION

No 96/10/COL

of 24 March 2010

to initiate the procedure provided for in Article 1(2) in Part I of Protocol 3 to the Surveillance and Court Agreement with regard to the sale of certain buildings at the Inner Camp at Haslemoen Leir (Norway)

THE EFTA SURVEILLANCE AUTHORITY ⁽¹⁾,

Having regard to the Agreement on the European Economic Area ⁽²⁾, in particular to Articles 61 to 63 and Protocol 26 thereof,

Having regard to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ⁽³⁾, in particular to Article 24 thereof,

⁽¹⁾ Hereinafter referred to as the Authority.

⁽²⁾ Hereinafter referred to as the EEA Agreement.

⁽³⁾ Hereinafter referred to as the Surveillance and Court Agreement.

Having regard to Article 1(2) of Part I and Articles 4(4) and 6 of Part II of Protocol 3 to the Surveillance and Court Agreement ⁽¹⁾,

Having regard to the Authority's Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement ⁽²⁾, and in particular the Chapter on State Aid Elements in Sales of Land and Buildings by Public Authorities thereof,

Whereas:

I. FACTS

1. Procedure

By letter dated 5 February 2007, the Authority received a complaint regarding a sale of land by the Municipality of Våler. The letter was received and registered by the Authority on 22 February 2007 (Event No 427226).

By letters dated 25 May 2007 and 14 November 2007 (Event No 422506 and Event No 449988), the Authority requested information from the Norwegian authorities.

By letters dated 6 July 2007 and 21 December 2007 (Event No 428521 and Event No 458787 respectively), the Norwegian authorities replied to the information requests.

Various mail correspondence has also taken place with the complainant.

2. Description of the sale and the contested measure

2.1. Background: the sale of the military camp Haslemoen Leir to the municipality

Following a decision by the Norwegian Parliament, the Norwegian Government was requested to sell military properties that were no longer used for military purposes. The relevant local municipalities were given a right of first refusal to the properties.

The military camp Haslemoen Leir, had been an army base since the 1950s and it is composed of (i) forest areas; (ii) cultivated area; (iii) housing area (Storskjaeret); and (iv) an area called the Inner Camp. Military activities at Haslemoen were terminated on 30 June 2003 and a sales process for the camp was initiated thereafter with Haslemoen Leir being put on the market in October 2004. The property was subsequently sold by the Norwegian State to Våler Municipality by a sales contract dated 16 April 2005. The price paid by Våler Municipality for the entire military camp was NOK 46 million.

Prior to the sale, the value of the camp had been estimated by several asset valuers.

The Norwegian State had commissioned Agdestein Takst & Eiendomsrådgivning to undertake a value assessment of the property and their report was presented on 22 December 2004 (hereinafter the first Agdestein Report). The first Agdestein Report focussed on the part of Haslemoen Leir called Inner Camp and examined each of the 44 buildings on that plot, before concluding that the estimated value of the entire Inner Camp was NOK 39 million. The first Agdestein Report also concluded that the estimated value should be reduced with NOK 10 million to NOK 29 million (i.e. almost 30 %), if all buildings were sold as one unit ⁽³⁾.

Våler Municipality had engaged the asset valuers Mr Alhaug and Mr Bakke to evaluate the buildings in the Inner Camp. Based on the fact that the new owner would assume the risk related to developing the entire property and the refurbishment costs that were necessary for the area, the Alhaug and Bakke Report dated 18 January 2005 (hereinafter the Alhaug and Bakke Report) concluded that the value of the Inner Camp was NOK 0 (zero).

⁽¹⁾ Hereinafter referred to as Protocol 3.

⁽²⁾ Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement and Article 1 of Protocol 3 to the Surveillance and Court Agreement, adopted and issued by the Authority on 19.1.1994, published in the *Official Journal of the European Union* (hereinafter referred to as OJ) L 231 of 3.9.1994 p. 1 and EEA Supplement No 32 of 3.9.1994 p. 1. Hereinafter referred to as the State Aid Guidelines. The updated version of the State Aid Guidelines is published on the Authority's website: <http://www.eftasurv.int/state-aid/legal-framework/state-aid-guidelines/>

⁽³⁾ Storskjaeret was valued at NOK 15 million if sold as one unit. The forest and cultivated areas were not valued at this time.

In order to reconcile the findings in the two valuation reports and reach an estimated sales price, the Norwegian State requested Agdestein Takst & Eiendomsrådgivning to make a second value assessment of the property, taking into account the diverging value assessments. The new assessment is set out in a report dated 3 March 2005 (hereinafter the second Agdestein Report). In this document, a new estimated value (a 'bridge value') of NOK 14,5 million was reached based on the average of the sum of the two separate assessments⁽¹⁾. The second Agdestein Report thereafter made an upwards adjustment of NOK 1 million, reflecting inter alia the value of undeveloped land and the conditions of the buildings in question, fixing the estimated value at NOK 15,5 million.

An additional reduction of 20 % of the estimated value of the property was thereafter made, based on the assumption that all the different areas (i.e. the forest areas, the cultivated area, the housing area, and the Inner Camp) in the Haslemoen Leir would be sold together in one single package. The Inner Camp was valued at NOK 12,4 million ($15,5 - 20\% = 12,4$).

As mentioned above, Våler Municipality paid NOK 46 million for the entire Haslemoen Leir.

2.2. *The sale by Våler Municipality of several buildings at the Inner Camp to Haslemoen AS*

Våler Municipality had prior to the acquisition of Haslemoen Leir declared that it did not intend to carry out any activities on the military camp itself, but would instead involve external operators to develop the area in an appropriate manner and to generate as many new job opportunities as possible.

2.2.1. *The sales process*

The Norwegian authorities have explained that several parties showed interest in the different properties at the Inner Camp at Haslemoen Leir when they were put up for sale. However, Våler Municipality wanted to find a buyer that would ensure a uniform development and optimal utilisation of the Inner Camp. It was, according to Våler Municipality, important for the Municipality to sell the Inner Camp as a whole package, even if this would reduce the overall price as the buyer would allegedly take on an increased risk when acquiring the entire property.

Some prospective buyers decided to cooperate and established a new company together named Haslemoen AS. Allegedly, the company was an attractive buyer for Våler Municipality, as it had the intention to use the property for accommodation as well as different cultural and sporting activities and events. Target groups were the army, security services providers, and the car industry.

By a contract dated 22 May 2006, Våler Municipality agreed to sell 29 out of the total 44 buildings in the Inner Camp area at the Haslemoen military camp to the company Haslemoen AS for a total amount of NOK 4 million⁽²⁾. The buildings covered by the contract of 22 May 2006 include barracks, mess halls for officers and soldiers with kitchen facilities, auditorium, movie theatre, school building, central heating, garages, office building and a hospital ward.

2.2.2. *Assessments*

The Norwegian authorities have explained that the asset valuer Mr Bakke, who had previously carried out a value assessment on behalf of the Municipality when the property was purchased from the Norwegian State, assisted the Municipality in the sales process with Haslemoen AS. However, no specific value assessment was carried out of the buildings covered by the contract between Våler Municipality and Haslemoen AS. The Norwegian authorities have explained that the valuations carried out when Våler Municipality initially bought the property were partially used again.

Mr. Bakke made an overview of sales prices dated 2 May 2006, which provides a justification for the purchase price of NOK 4 million. This report explains that the value of the buildings that Våler Municipality will maintain ownership over at the Inner Camp is estimated at NOK 3,6 million. This conclusion is partially based on the individual valuations carried out in the first Agdestein report⁽³⁾. Moreover, the report indicates that Våler Municipality received an offer of NOK 5 million presented orally from another buyer for 11 buildings at the Inner Camp⁽⁴⁾. Considering that the second Agdestein Report had evaluated

⁽¹⁾ The price estimated at NOK 29 million in the first Agdestein Report was added to the price of NOK 0 in the Alhaug and Bakke Report, and was then divided by two. A new price of NOK 14,5 million for the Inner Camp was thus reached.

⁽²⁾ When examining the sales contract and counting the buildings concerned, it is however not entirely clear to the Authority whether the contract covers 29 or 30 buildings.

⁽³⁾ This evaluation was also based on an assessment carried out by Mr Alhaug for the municipality. This assessment does however not appear to be included in the evaluation report, dated 15.3.2006, that has been provided to the Authority.

⁽⁴⁾ Details of the terms of this offer or any finalised and signed contract has not been communicated to the Authority.

all the buildings at the Inner Camp at NOK 12,4 million, Våler Municipality is of the opinion that the sales price of NOK 4 million for the 29 buildings sold to Haslemoen AS corresponds to their market price. It is argued that the total amount for all the buildings is NOK 12,6 million (3,6 + 5 + 4) and this is even more than what Våler Municipality paid for the buildings when they were initially bought from the Norwegian State (i.e. NOK 12,4 million).

3. Comments by the Norwegian authorities

The Norwegian authorities acknowledge that Våler Municipality applied a formal procedure to calculate the price of the buildings that differed slightly from the method described in the Authority's Guidelines in order to exclude the presence of state aid. However, the Norwegian authorities are of the opinion that the sales price of NOK 4 million for the 29 buildings in the Inner Camp represents the market value and the procedure chosen for ensuring this was considered rational and secure.

Moreover, the Norwegian authorities are of the opinion that the sales contract between Våler Municipality and Haslemoen AS contains several elements that have a price reducing effect. One of these elements is an obligation imposed on the buyer to rent out the purchased school building for a period of one year for free.

The Norwegian authorities argue that although only part of the 44 buildings were bought, the sales contract between Våler Municipality and Haslemoen AS is nevertheless based on the assumption that the buyer would develop and operate the entire Inner Camp as well as the areas outside as one unit together with Våler Municipality⁽¹⁾.

The sales price of NOK 4 million reflects this assumption and this is the reason why the application of a 30 % and an additional 20 % rebate was justified when reaching the final price.

The Norwegian authorities have stressed that Våler Municipality endeavoured to handle the sale in a manner that would not raise problems with regard to the EEA state aid rules.

II. ASSESSMENT

1. Assessment of state aid

1.1. State aid within the meaning of Article 61(1) EEA

Article 61(1) EEA reads as follows:

'Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement.'

Aid falling within this provision is, as a rule, incompatible with the EEA Agreement and hence prohibited, provided that the following four conditions are fulfilled:

1. the aid is granted by 'EC Member States, EFTA States or through state resources in any form whatsoever';
2. the aid 'distorts or threatens to distort competition';
3. the aid favours 'certain undertakings or the production of certain goods'; and
4. the aid 'affects trade between the Contracting Parties'.

The State Aid Guidelines, and its Chapter on State aid elements in sales of land and buildings by public authorities, explains how the Authority interprets and applies the provisions of the EEA Agreement governing state aid when it comes to assessing sale of public land and buildings. Section 2.1 describes a sale through an unconditional bidding procedure, while Section 2.2 describes a sale without an unconditional bidding procedure (by way of an independent expert evaluation). These two procedures allow EFTA States to handle sales of land and buildings in a way that precludes the existence of state aid.

In the case at hand, none of these procedures was followed and therefore it cannot be excluded that state aid was granted in connection with the sale of the 29 buildings from Våler Municipality to Haslemoen AS.

⁽¹⁾ The sales contract relates however only to the purchase of 29 of the 44 buildings at the Inner Camp.

The Authority considers that the sale of the 29 buildings at the Inner Camp could amount to state aid if the sale took place at a price below market value.

1.2. Market investor principle

1.2.1. Introduction

If the transaction was carried out in accordance with the market economy investor principle, i.e., if the municipality sold the land at its market value and the conditions of the transaction would have been acceptable for a private seller, the transaction would not involve the grant of state aid.

1.2.2. Doubts on the value

The Authority notes that no separate valuation of the buildings that were purchased by Haslemoen AS was carried out for the purpose of this sale. Furthermore, no explanation or information has been presented to the Authority as to why the price of NOK 4 million corresponded to market value.

However, the property in question had shortly before been transferred from the Norwegian state to the municipality and in that process no less than 3 different value assessments were collected in order to determine the market value. It follows from the Authority's guidelines on sale of land that, to the extent a preceding sales process has determined the market value, a public authority may use its primary cost as an indication for the market value unless a significant period of time has elapsed between the purchase and the sale of the land⁽¹⁾. This is further explained so that the market value may not be set below the public authority's primary cost during at least three years after the acquisition unless an independent valuer specifically identifies a general decline in market prices.

Thus, in the present case two questions arise. First whether the preceding transaction between the state and Våler Municipality was carried out on market terms. Second, if it did, whether Våler Municipality subsequently sold the property to Haslemoen AS for a price corresponding at least to its primary cost.

As regards the first question the Authority considers that there was great uncertainty about the market value of the properties in question in the negotiations between the state and Våler Municipality. This is illustrated by the gap between the first Agdestein report, which estimated the value of the Inner camp at NOK 39 million (NOK 29 million if sold en bloc) and the second assessment by Alhaug and Bakke, which considered the value to be 0.

In the view of the Authority, this gap illustrates the uncertainty inherent in an assessment of this type of land, namely a former military camp with old buildings, both residential housing and other buildings such as a cinema and sports facilities, located in a remote area. Although an alternative could have been to appoint a third, independent expert to review the estimated value, the Government and Våler Municipality agreed to ask the first value assessor to re-examine the conclusions reached under the first Agdestein report. The second Agdestein report estimated a new value for the property based on the average of the sum of the two previous reports ('bridge value') and adjusted it accordingly.

The question arises however whether the municipality sold the 29 buildings in the Inner camp to Haslemoen AS for a price corresponding at least to its primary cost.

The 'bridge value' in the second Agdestein Report, adjusted for various reasons, concluded that the value was NOK 12,4 million for all the buildings at the Inner Camp. If one applies the bridge value method to the 29 buildings in question, the value seems to amount to NOK 11 920 000 (23 840 000/2)⁽²⁾. This amount is substantially higher than the actual sales price of NOK 4 million. The Norwegian authorities have argued that the price of NOK 4 million paid by Haslemoen AS for the 29 buildings reflects the market value after taking into account (i) the price Våler Municipality initially paid when it purchased the entire Haslemoen Leir, (ii) the value of an oral offer made for some of the remaining buildings in the Inner Camp, and (iii) the estimated value of other buildings in the Inner Camp that Våler Municipality will keep.

⁽¹⁾ Section 2.2.d) of the Authority's Guidelines on sale of land and buildings, 'Cost to the Authorities'.

⁽²⁾ This reflects the sum of the estimated value for the 29 buildings as derived from the first Agdestein Report, divided by two in order to reflect the 'bridge value' logic. This is however a conservatively calculated value as some of the estimates in the first Agdestein Report group several buildings together. It is therefore unclear what the estimated value of the individual buildings were. Since not all of these buildings grouped together have been sold by Våler Municipality, the Authority has disregarded the entire estimated value of these buildings grouped together. In this way, the calculated value reflects a conservative interpretation of the most favourable scenario for the Norwegian authorities.

As for the alleged oral offer, the Authority notes that to its knowledge no agreement has been concluded. Moreover, the Authority has not received any documentation for such an offer.

1.2.3. Rebates

Moreover, the Authority notes that the Norwegian Authorities argue that the same rebate which were granted to Våler Municipality when the property was initially bought should be applicable to the sale of the 29 buildings to Haslemoen AS.

First, the Norwegian State granted a 30 % rebate to Våler Municipality for acquiring all buildings in the Inner Camp. Based on the information submitted, it is not clear to the Authority why that rebate, which was based on a sale en bloc, should be granted by Våler Municipality when it resold 29 of the 44 buildings to Haslemoen AS.

Second, the additional 20 % rebate granted by the Norwegian State to Våler Municipality was based on the acquisition of all properties in the Haslemoen Leir military camp (Inner Camp, forest areas, cultivated areas, etc.). In the opinion of the Authority, this rebate is not applicable to the sale of only some buildings at the Inner Camp of the military camp.

Thus, even if the Authority would accept that a sale of the military camp en bloc would reduce the market value, it is in doubt that similar rebates would reflect market conditions when only parts of the camp were sold.

1.2.4. Conclusion on the market investor principle

In light of all the above, the Authority has doubts as to whether the NOK 4 million that Haslemoen AS paid for acquiring the 29 buildings at the Inner Camp from Våler Municipality represented the market value. Consequently, on the basis of the information provided by the Norwegian authorities, the Authority cannot conclude that the sale of the buildings in question to Haslemoen AS for the sales price of NOK 4 million was carried out in accordance with the market investor principle.

1.3. *The presence of state aid*

1.3.1. State resources

In order to qualify as state aid, the measure must be granted by the State or through state resources. The concept of the State does not only refer to the central government but embraces all levels of the state administration (including municipalities) as well as public undertakings.

If the municipality sold the buildings below their market price, it would have foregone income. Under this assumption, Haslemoen AS should have paid more for the buildings and therefore there would be a transfer of resources from Våler Municipality. For these reasons, the Authority considers that if the sale did not take place in accordance with conditions acceptable for a private market investor, as set out above, state resources within the meaning of Article 61(1) of the EEA Agreement would be involved.

1.3.2. Favouring certain undertakings or the production of certain goods

Second, the measure must be selective in that it favours 'certain undertakings or the production of certain goods'.

To constitute state aid, the measure must confer on Haslemoen AS advantages that relieve it of charges that are normally borne from its budget. If the transaction was carried out under favourable terms, in the sense that Haslemoen AS would most likely have had to pay a higher price for the properties if the sale had been conducted according to the market investor principle, the company would have received an advantage within the meaning of the state aid rules. The Authority considers that if Haslemoen AS was able to buy the property for less than its market value, the difference between the price actually paid and the fair market value would constitute an advantage.

Third, the aid measure must be selective in that it favours 'certain undertakings or the production of certain goods'. In the case at hand, there is only one possible beneficiary of the measure under assessment, i.e. Haslemoen AS. The measure is thus selective.

1.3.3. Distortion of competition and effect on trade between Contracting Parties

Finally, to be considered state aid, the measure must distort competition and affect trade between the Contracting Parties. Under settled case law ⁽¹⁾ for the purpose of these provisions, the mere fact that an aid strengthens a firm's position compared with that of other firms, which are competitors in intra-EEA trade, is enough to allow the conclusion to be drawn that intra-EEA trade is affected.

The Authority considers that the real estate market in central eastern Norway is not limited to local undertakings. Haslemoen AS is in competition with similar undertakings in Norway and other EEA States. A sales price below market value favouring Haslemoen AS would distort or threaten to distort competition and affect trade between Contracting Parties. Consequently, the Authority considers that conditions two and four set out in section 4.1 above, are fulfilled.

1.3.4. Conclusion on the presence of state aid

In light of what has been found above, the Authority considers that it cannot be excluded that state aid was involved in the context of the Municipality of Våler's sale of buildings to Haslemoen AS.

2. Procedural requirements

Pursuant to Article 1(3) of Part I of Protocol 3, 'the EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. ... The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision'.

The Norwegian authorities did not notify the sale of certain buildings at the Inner Camp in the Haslemoen Leir to the Authority. The Authority therefore concludes that the Norwegian authorities have not respected their obligations pursuant to Article 1(3) of Part I of Protocol 3.

3. Compatibility of the aid

Should aid have been granted regarding the sale of certain buildings at the Inner Camp in Haslemoen Leir, it has to be considered whether such aid could be compatible with the EEA Agreement by virtue of Article 61(3) of the EEA Agreement.

On the basis of the information the Authority has received, Article 61(3)(a)-(c) of the EEA Agreement appears to be inapplicable. In the view of the Authority, the sale is not designed to promote the economic development of areas where the standard of living is abnormally low or where there is serious under-employment, to promote a project of common European interest or to facilitate the development of certain economic activities or of certain economic areas.

The Authority therefore doubts that the transaction under assessment can be justified under the state aid provisions of the EEA Agreement.

4. Conclusion

Based on the information submitted by the Norwegian authorities, the Authority cannot exclude the possibility that the measure under scrutiny constitute aid within the meaning of Article 61(1) of the EEA Agreement. Furthermore, the Authority has doubts as to whether this measures can be regarded as complying with Article 61(3) of the EEA Agreement. The Authority thus doubts that the above measure is compatible with the functioning of the EEA Agreement.

Consequently, and in accordance with Article 10 in Part II of Protocol 3 to the Surveillance and Court Agreement, the Authority is obliged to open the procedure provided for in Article 1(2) in Part I of Protocol 3 of the Surveillance and Court Agreement. The decision to open proceedings is without prejudice to the final decision of the Authority, which may conclude that the measure in question is compatible with the functioning of the EEA Agreement.

In light of the foregoing considerations, the Authority, acting under the procedure laid down in Article 1(2) in Part I of Protocol 3 to the Surveillance and Court Agreement, requests the Norwegian authorities to submit their comments within one month of the date of receipt of this Decision.

⁽¹⁾ See e.g. Case C 730/79, *Philip Morris Holland BV v EC Commission*, ECR 1980, p. 2671.

In light of the foregoing consideration, the Authority requires that, within one month of receipt of this decision, the Norwegian authorities provide all documents, information and data needed for assessment of the compatibility of the sale of certain buildings at the Inner Camp at the Haslemoen Leir to Haslemoen AS. It requests the Norwegian authorities to forward a copy of this letter to Haslemoen AS immediately.

The Authority would like to remind the Norwegian authorities that, according to the provisions of Protocol 3 to the Surveillance and Court Agreement, any incompatible aid unlawfully put at the disposal of the beneficiaries will have to be recovered, unless this recovery would be contrary to a general principle of EEA law.

HAS ADOPTED THIS DECISION:

Article 1

The EFTA Surveillance Authority has decided to open the formal investigation procedure provided for in Article 1(2) of Part I of Protocol 3 against Norway regarding the sale of certain buildings at the Inner Camp in the Haslemoen Leir.

Article 2

The Norwegian authorities are invited, pursuant to Article 6(1) of Part II of Protocol 3, to submit their comments on the opening of the formal investigation procedure within one month from the notification of this Decision.

Article 3

The Norwegian authorities are requested to provide within one month from notification of this decision, all documents, information and data needed for assessment of the compatibility of the aid measure.

Article 4

This Decision is addressed to the Kingdom of Norway.

Article 5

Only the English version is authentic.

Done at Brussels, 24 March 2010.

For the EFTA Surveillance Authority

Per SANDERUD
President

Kurt JÄGER
College Member

V

(Announcements)

COURT PROCEEDINGS

EFTA COURT

Request for an Advisory Opinion from the EFTA Court by Héraðsdómur Reykjavíkur dated 26 March 2010 in the case of Þór Kolbeinsson v the Icelandic State**(Case E-2/10)**

(2010/C 325/05)

A request has been made to the EFTA Court by a letter of 26 March 2010 from Héraðsdómur Reykjavíkur (Reykjavík District Court), which was received at the Court Registry on 6 April 2010, for an Advisory Opinion in the case of Þór Kolbeinsson v the Icelandic State, on the following questions:

1. Is it compatible with the provisions of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work and Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) that a worker, due to his own contributory negligence, is held liable for losses suffered as a result of an accident at work, when it has been established that the employer has not on his own initiative complied with rules regarding safety and conditions in the work place?
 2. If the answer to the above question is in the negative, is the Icelandic State then liable to award damages to a worker who suffered an accident at work and had to, contrary to the aforementioned directives, partly or wholly bear the losses suffered, due to his own contributory negligence, on the grounds that the State had not correctly implemented these directives into Icelandic law?
-

Request for an Advisory Opinion from the EFTA Court by Fürstliches Obergericht dated 19 May 2010 in the case of Dr Joachim Kottke v Präsidial Anstalt and Sweetlye Stiftung

(Case E-5/10)

(2010/C 325/06)

A request has been made to the EFTA Court by a letter of 19 May 2010 from Fürstliches Obergericht (Princely Court of Appeal), which was received at the Court Registry on 27 May 2010, for an Advisory Opinion in the case of Dr Joachim Kottke v Präsidial Anstalt and Sweetlye Stiftung, on the following questions:

1. Does the Agreement on the European Economic Area, which entered into force in Liechtenstein on 1 May 1995, constitute a (multilateral) treaty which, as a result of the prohibition of discrimination contained particularly in Article 4 thereof, prohibit an obligation to provide security for costs from being imposed on claimants who reside in another EEA Member State if claimants who reside in Liechtenstein are not obliged to provide such security for costs?

In the event that the first question is answered in the negative:

2. Is the provision contained in Section 57(2) point 1 of the Liechtenstein Zivilprozessordnung (Code of Civil Procedure), whereby a waiver of the obligation on claimants who reside in another State to provide security is made conditional upon the possibility of enforcement in the country of residence, compatible with the EEA Agreement, in particular with the general prohibition of discrimination under Article 4 thereof, insofar as it applies to claimants who reside in an EEA Member State?
-

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION
POLICY

EUROPEAN COMMISSION

Prior notification of a concentration

(Case COMP/M.6029 — Danish Crown/D&S Fleisch)

Candidate case for simplified procedure

(Text with EEA relevance)

(2010/C 325/07)

1. On 23 November 2010, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which Danish Crown AmbA ('Danish Crown', Denmark) acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of part of D&S Fleisch GmbH ('D&S', Germany) by way of purchase of assets.

2. The business activities of the undertakings concerned are:

— for Danish Crown: slaughtering of pigs and cattle, meat processing and meat trading,

— for D&S: slaughtering and production of pig meat.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6029 — Danish Crown/D&S Fleisch, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').

⁽²⁾ OJ C 56, 5.3.2005, p. 32 ('Notice on a simplified procedure').

Prior notification of a concentration**(Case COMP/M.6054 — First Reserve Corporation/Blackstone/PBF Energy)****Candidate case for simplified procedure****(Text with EEA relevance)**

(2010/C 325/08)

1. On 24 November 2010, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which The Blackstone Group LP ('Blackstone', USA) and First Reserve Corporation ('FRC', USA) acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of PBF Energy Company LLC ('PBF', USA), by way of an agreement.

2. The business activities of the undertakings concerned are:

- FRC: investment in global energy companies including oilfield services, energy infrastructure and power and energy reserves,
- Blackstone: global alternative asset management and provision of financial advisory services,
- for PBF: oil refining in the USA.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6054 — First Reserve Corporation/Blackstone/PBF Energy, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').

⁽²⁾ OJ C 56, 5.3.2005, p. 32 ('Notice on a simplified procedure').

Prior notification of a concentration**(Case COMP/M.6052 — London & Continental Railways/Lend Lease Europe/Stratford City Business District)****Candidate case for simplified procedure****(Text with EEA relevance)**

(2010/C 325/09)

1. On 25 November 2010, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertakings London & Continental Railways Limited ('LCR', United Kingdom) and Lend Lease Europe Limited belonging to the Lend Lease group ('Lend Lease', Australia) acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of the undertaking Stratford City Business District Limited ('SCBD', United Kingdom) by way of purchase of shares in a newly created company constituting a joint venture.

2. The business activities of the undertakings concerned are:

- for LCR: shareholding in Eurostar International Limited and development interests at King's cross and Stratford in London,
- for Lend Lease: international property company, active in development, investment management, project and construction management, and asset and property management,
- for SCBD: development and management of land at Stratford City in London.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6052 — London & Continental Railways/Lend Lease Europe/Stratford City Business District, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').

⁽²⁾ OJ C 56, 5.3.2005, p. 32 ('Notice on a simplified procedure').

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