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(segue)

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[1] Testo rilevante ai fini del SEE

(segue in 3ª pagina di copertina)

I

(Risoluzioni, raccomandazioni e pareri)

RACCOMANDAZIONI

BANCA CENTRALE EUROPEA

RACCOMANDAZIONE DELLA BANCA CENTRALE EUROPEA

del 1º luglio 2010

al Consiglio dell'Unione europea relativamente ai revisori esterni della Národná banka Slovenska

(BCE/2010/6)

(2010/C 184/01)

IL CONSIGLIO DIRETTIVO DELLA BANCA CENTRALE EUROPEA,

visto lo statuto del Sistema europeo di banche centrali e della Banca centrale europea, in particolare l'articolo 27.1,

considerando quanto segue:

(1) I conti della Banca centrale europea (BCE) e delle banche centrali nazionali sono verificati da revisori indipendenti esterni la cui nomina è raccomandata dal Consiglio direttivo della BCE ed approvata dal Consiglio dell'Unione europea.

(2) Il mandato degli attuali revisori esterni della Národná banka Slovenska si è concluso dopo l'attività di revisione per l'esercizio finanziario 2009. Risulta, pertanto, necessario nominare nuovi revisori esterni a partire dall'esercizio finanziario 2010.

(3) La Národná banka Slovenska ha selezionato Ernst & Young Slovakia, spol. s r.o. come propri revisori esterni per gli esercizi finanziari compresi tra il 2010 il 2014,

HA ADOTTATO LA PRESENTE RACCOMANDAZIONE:

Si raccomanda che Ernst & Young Slovakia, spol. s r.o. siano nominati revisori esterni della Národná banka Slovenska per gli esercizi finanziari compresi tra il 2010 e 2014.

Fatto a Francoforte sul Meno, il 1º luglio 2010.

Il presidente della BCE

Jean-Claude TRICHET

IV

(Informazioni)

INFORMAZIONI PROVENIENTI DALLE ISTITUZIONI, DAGLI ORGANI E DAGLI ORGANISMI DELL'UNIONE EUROPEA

COMMISSIONE EUROPEA

Tassi di cambio dell'euro [1]

7 luglio 2010

(2010/C 184/02)

1 euro =

	Moneta	Tasso di cambio		Moneta	Tasso di cambio
USD	dollari USA	1,2567	AUD	dollari australiani	1,4821
JPY	yen giapponesi	109,56	CAD	dollari canadesi	1,3311
DKK	corone danesi	7,4532	HKD	dollari di Hong Kong	9,7913
GBP	sterline inglesi	0,83190	NZD	dollari neozelandesi	1,8160
SEK	corone svedesi	9,6160	SGD	dollari di Singapore	1,7480
CHF	franchi svizzeri	1,3312	KRW	won sudcoreani	1 536,73
ISK	corone islandesi		ZAR	rand sudafricani	9,6505
NOK	corone norvegesi	8,1010	CNY	renminbi Yuan cinese	8,5169
BGN	lev bulgari	1,9558	HRK	kuna croata	7,1913
CZK	corone ceche	25,548	IDR	rupia indonesiana	11 408,78
EEK	corone estoni	15,6466	MYR	ringgit malese	4,0459
HUF	fiorini ungheresi	284,47	PHP	peso filippino	58,512
LTL	litas lituani	3,4528	RUB	rublo russo	39,1503
LVL	lats lettoni	0,7095	THB	baht thailandese	40,818
PLN	zloty polacchi	4,1220	BRL	real brasiliano	2,2422
RON	leu rumeni	4,2318	MXN	peso messicano	16,3773
TRY	lire turche	1,9632	INR	rupia indiana	59,1290

[1] *Fonte*: tassi di cambio di riferimento pubblicati dalla Banca centrale europea.

INFORMAZIONI PROVENIENTI DAGLI STATI MEMBRI

Comunicazione della Commissione a norma dell'articolo 16, paragrafo 4, del regolamento (CE) n. 1008/2008 del Parlamento europeo e del Consiglio recante norme comuni per la prestazione di servizi aerei nella Comunità

Oneri di servizio pubblico (modificati) in relazione a servizi aerei di linea

(Testo rilevante ai fini del SEE)

(2010/C 184/03)

Stato membro	Regno Unito
Rotte interessate	Oban–Coll Oban–Colonsay Oban–Tiree Coll–Tiree
Data di entrata in vigore degli oneri di servizio pubblico	2 marzo 2007
Indirizzo presso il quale è possibile ottenere il testo e qualsiasi informazione e/o documentazione pertinente correlata agli oneri di servizio pubblico modificati	Argyll and Bute Council Council Offices Kilmory Lochgilphead Argyll PA31 8RT Scotland UNITED KINGDOM Tel. +44 1546604141 Fax +44 1546606443 (Persona di contatto: Sandy Mactaggart, *Development and Infrastructure Services*) E-mail: sandy.mactaggart@argyll-bute.gov.uk

Comunicazione della Commissione a norma dell'articolo 17, paragrafo 5, del regolamento (CE) n. 1008/2008 del Parlamento europeo e del Consiglio recante norme comuni per la prestazione di servizi aerei nella Comunità

Bando di gara per l'esercizio di servizi aerei di linea in conformità degli oneri di servizio pubblico

(Testo rilevante ai fini del SEE)

(2010/C 184/04)

Stato membro	Regno Unito
Rotte interessate	Oban–Coll Oban–Colonsay Oban–Tiree Coll–Tiree
Periodo di validità del contratto	1º ottobre 2010-31 marzo 2014
Termine ultimo per la presentazione delle offerte	2 mesi dalla data di pubblicazione della presente comunicazione
Indirizzo presso il quale è possibile ottenere il testo del bando di gara e qualsiasi informazione e/o documentazione pertinente correlata alla gara d'appalto e agli oneri di servizio pubblico modificati	Argyll and Bute Council Council Offices Kilmory Lochgilphead Argyll PA31 8RT Scotland UNITED KINGDOM Tel. +44 1546604141 Fax +44 1546606443 (Persona di contatto: Sandy Mactaggart, *Development and Infrastructure Services*) E-mail: sandy.mactaggart@argyll-bute.gov.uk

INFORMAZIONI RELATIVE ALLO SPAZIO ECONOMICO EUROPEO

AUTORITÀ DI VIGILANZA EFTA

Invito a presentare osservazioni ai sensi dell'articolo 1, paragrafo 2, della parte I del protocollo 3 dell'accordo tra gli Stati EFTA sull'istituzione di un'Autorità di vigilanza e di una Corte di giustizia, in materia di aiuti di Stato, riguardo al finanziamento di un centro fitness nel centro ricreativo di Kippermoen

(2010/C 184/05)

Con decisione n. 537/09/COL del 16 dicembre 2009, riprodotta nella lingua facente fede nelle pagine che seguono la presente sintesi, l'Autorità di vigilanza EFTA ha avviato un procedimento ai sensi dell'articolo 1, paragrafo 2, della parte I del protocollo 3 dell'accordo tra gli Stati EFTA sull'istituzione di un'Autorità di vigilanza e di una Corte di giustizia. Una copia della decisione è stata inviata per informazione alle autorità norvegesi.

L'Autorità di vigilanza EFTA invita gli Stati EFTA, gli Stati membri dell'Unione europea e le parti interessate a inviare eventuali osservazioni sulla misura in questione entro un mese dalla data di pubblicazione del presente avviso al seguente indirizzo:

Autorità di vigilanza EFTA
Registro
Rue Belliard 35
1040 Bruxelles/Brussel
BELGIQUE/BELGIË

Le osservazioni saranno comunicate alle autorità norvegesi. Su richiesta scritta e motivata degli autori delle osservazioni, la loro identità non sarà rivelata.

SINTESI

Il 27 gennaio 2009 le autorità norvegesi hanno notificato il finanziamento del centro fitness presso il centro ricreativo di Kippermoen (in appresso denominato CRK) come misura che non costituisce aiuto, per motivi di certezza del diritto. L'Autorità ha inviato due richieste di informazioni cui le autorità norvegesi hanno risposto.

Il CRK è stato creato negli anni settanta. Si trova nella città di Mosjøen, che fa parte del comune di Vefsn, nella contea di Nordland, la seconda contea più settentrionale della Norvegia. Il centro è di proprietà del Comune di Vefsn e non ha personalità giuridica distinta.

Inizialmente il centro si componeva di una piscina coperta, un solarium, un palazzetto dello sport e un centro fitness. Nel 1997 il CRK (compreso il centro fitness) è stato ampliato e modernizzato. Il centro fitness è stato ampliato nuovamente nel 2006 e nel 2007.

Aiuto nuovo o esistente

Nella misura in cui il finanziamento del centro fitness presso il CRK implica la concessione di un aiuto di Stato, la domanda è se tale misura rappresenta un aiuto nuovo o esistente.

Il CRK è stato finanziato direttamente dal Comune di Vefsn sin dalla sua creazione, all'inizio degli anni settanta. Inoltre, dal momento della sua creazione, il CRK è stato sempre finanziato dalle entrate generate dalle tariffe pagate dagli utenti, fissate dal Comune. Questo metodo di finanziamento esisteva prima che l'accordo SEE entrasse in vigore il 1º gennaio 1994 e pertanto sembra costituire un aiuto esistente ai sensi dell'articolo 1, lettera b, punto i), della parte II del protocollo 3.

Sebbene, stando alle informazioni fornite, l'ampliamento del 2006/2007 dovesse essere finanziato in base allo stesso meccanismo di finanziamento utilizzato per i costi di funzionamento, l'Autorità non ha ricevuto sufficienti informazioni specifiche sul finanziamento dell'ampliamento del 1997.

Inoltre, dall'entrata in vigore dell'accordo SEE, il sistema di tariffazione è stato modificato. I cambiamenti sembrano aver interessato il prezzo, i tipi di biglietti offerti e il sistema di assegnazione delle entrate da essi generate. L'Autorità non ha ricevuto informazioni dettagliate riguardanti questi cambiamenti e di conseguenza non può escludere che essi implichino una nuova forma di aiuto.

Secondo le informazioni rese note all'Autorità per quanto riguarda il beneficiario e relativamente ai locali, il centro fitness disponeva inizialmente di un'attrezzatura modesta. La domanda è se gli impianti sportivi che esistevano negli anni settanta sono stati semplicemente modernizzati in base alla nuova domanda o se l'attuale centro fitness è da considerarsi come un nuovo impianto. Secondo quanto risulta all'Autorità, il centro fitness attuale non è solo notevolmente più grande ma offre anche una gamma di attività fitness molto più ampia rispetto alla modesta attrezzatura precedente. A tal riguardo, l'Autorità non è sicura che gli ampliamenti del 1997 e/o del 2006/2007, avvenuti dopo l'entrata in vigore dell'accordo SEE, abbiano modificato la natura delle attività del centro fitness. Secondo la giurisprudenza, ampliare la portata delle attività non significa in genere che la misura implichi nuovi aiuti. Tuttavia, dati i cambiamenti e l'espansione apparentemente notevoli delle attività del centro fitness ([1]), l'Autorità non è stata in grado di escludere che la classificazione dell'aiuto possa essere cambiata.

Presenza di aiuto di Stato

Vantaggi derivanti da risorse statali concesse a un'impresa

Il Comune di Vefsn finanzia il disavanzo annuale dell'intero CRK. Le risorse comunali sono risorse statali a norma dell'articolo 61 dell'accordo SEE ([2]). Il centro fitness è stato finanziato con tariffe pagate dagli utenti stabilite e assegnate dal Comune in modo tale da ottenere un'eccedenza, mentre il resto del CRK è in disavanzo. A causa della prassi di non avere una chiara separazione dei conti, l'Autorità non può escludere che vi sia stato un finanziamento incrociato del centro fitness.

Il centro fitness ha anche ricevuto finanziamenti da *Norsk Tipping AS*, società di gioco d'azzardo interamente posseduta dallo Stato norvegese e sotto la giurisdizione del ministero degli Affari culturali ed ecclesiastici ([3]). I fondi provenienti dal gioco d'azzardo sono raccolti, gestiti e distribuiti sotto il controllo dello Stato e, di conseguenza, rappresentano risorse statali ai sensi dell'articolo 61, paragrafo 1, dell'accordo SEE.

Inoltre, il centro fitness potrebbe essere stato finanziato da risorse derivanti dalla contea di Nordland.

Il centro fitness che costituisce parte del CRK funziona in larga misura come un centro fitness normale e a tal riguardo sembra costituire un'impresa. Sebbene le autorità norvegesi abbiano sostenuto che non sono concessi aiuti di Stato al centro fitness nel senso della giurisprudenza nella causa Altmark, in questa fase l'Autorità non può escludere che il finanziamento del centro fitness presso il CRK conferisca un vantaggio a tale centro fitness.

Distorsione della concorrenza e incidenza sugli scambi fra le parti contraenti

Il vantaggio per il centro fitness presso il CRK sembra falsare la concorrenza nel mercato dei centri fitness. Tuttavia l'Autorità nutre dei dubbi circa il fatto che la misura rischi di incidere sugli scambi all'interno del SEE ai sensi dell'articolo 61, paragrafo 1, dell'accordo SEE. In generale, i centri fitness sembrano fornire servizi che per loro stessa natura sono caratterizzati da una zona di attrazione limitata. Il centro fitness presso il CRK non sembra così eccezionale da attrarre visitatori da lontano. È ubicato nella seconda contea più settentrionale della Norvegia, a circa 60km di strada dalla frontiera svedese più vicina. Tuttavia, sul mercato norvegese dei centri fitness operano alcune imprese che effettuano scambi all'interno del SEE. D'altro lato sembra che queste imprese tendano a stabilirsi nelle zone più densamente popolate della Norvegia.

([1]) Si veda la comunicazione della Commissione relativa all'applicazione delle norme sugli aiuti di Stato al servizio pubblico di emittenza radiotelevisiva, GU C 257 del 27.10.2009, pag. 1, punti da 25 a 31 e 80 e segg.

([2]) Si veda la decisione dell'Autorità n. 55/05/COL, sezione 2.3, pag. 19 con ulteriori riferimenti, pubblicata nella GU L 324 del 23.11.2006, pag. 11 e nel supplemento SEE n. 56 del 23.11.2006, pag. 1.

([3]) Si veda la relazione sociale annuale di *Norsk Tipping AS* per il 2008, pag. 3, disponibile all'indirizzo https://www.norsk-tipping.no/page?id=207

Compatibilità dell'aiuto

L'Autorità nutre dubbi sul fatto che la gestione di quello che, in larga misura, sembra essere un normale centro fitness possa rappresentare un servizio di interesse economico generale ai sensi dell'articolo 59, paragrafo 2, dell'accordo SEE.

Inoltre, l'Autorità non è sicura che il finanziamento del centro fitness possa essere compatibile con l'accordo SEE in base alla deroga culturale di cui all'articolo 61, paragrafo 3, lettera c), dell'accordo stesso, come affermato dalle autorità norvegesi.

Infine l'Autorità dubita circa la compatibilità, parziale o totale, del finanziamento degli ampliamenti del 1997 e del 2006/2007 con il funzionamento dell'accordo SEE in base all'articolo 61, paragrafo 3, lettera c) e ai capitoli degli orientamenti dell'Autorità sugli aiuti regionali.

Conclusione

Alla luce delle precedenti considerazioni, l'Autorità ha deciso di avviare il procedimento d'indagine formale in conformità dell'articolo 1, paragrafo 2, della parte I del protocollo 3 dell'accordo fra gli Stati EFTA sull'istituzione di un'Autorità di vigilanza e di una Corte di giustizia relativamente ai fondi derivanti dal Comune di Vefsn versati al centro fitness del CRK. Le parti interessate sono invitate a presentare osservazioni entro un mese dalla pubblicazione della presente decisione nella *Gazzetta ufficiale dell'Unione europea*.

EFTA SURVEILLANCE AUTHORITY DECISION

No 537/09/COL

of 16 December 2009

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 financing of the fitness centre at the Kippermoen Leisure Centre

(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,

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 [4],

[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.
[4] Hereinafter referred to as Protocol 3.

Having regard to the Authority's Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement [1], and in particular the Chapters on Public service compensation [2] and National Regional Aid [3] thereof,

Having regard to the Authority's Decision of 14 July 2004 on the implementing provisions referred to under Article 27 of Part II of Protocol 3 [4],

Whereas:

I. **FACTS**

1. **Procedure**

By letter dated 27 January 2009, the Norwegian authorities notified a measure financing the publicly owned fitness centre at the Kippermoen Leisure Centre (KLC) (*Kippermoen Idrettssenter*), pursuant to Article 1(3) of Part I of Protocol 3. The letter was registered by the Authority the 28 January 2009 (Event No 506341).

By email dated 3 March 2009 (Event No 511153), the Norwegian Association for Fitness Centres (NAFC) (*Norsk Treningssenterforbund)* submitted comments to the notification.

By letter dated 27 March 2009 (Event No 511172), the Authority forwarded the comments from NAFC to the Norwegian authorities and requested additional information. By letter dated 29 May 2009 (Event No 520013), the Norwegian authorities replied to the information request. By letter dated 29 July 2009 (Event No 525457), the Authority requested additional information from the Norwegian authorities. By letter dated 9 September 2009 (Event No 529846), the Norwegian authorities replied to the information request.

The Authority and the Norwegian authorities discussed the notification in a meeting in Oslo on 16 September 2009. By email dated 28 September 2009, the Authority requested further information and clarifications, to which the Norwegian authorities replied by email dated 29 September 2009 (the two emails are archived as Event No 531832).

2. **The KLC**

2.1. ***Overview of the development of the KLC***

The KLC was established in the 1970s. It is located in the city of Mosjøen which is part of the municipality of Vefsn, in the county of Nordland. The centre is owned by the municipality and is not organised as a separate legal entity.

Initially, the centre consisted of two separate buildings, one hall encompassing an indoor swimming pool with a solarium and a sports hall. Furthermore, the KLC housed a modestly equipped fitness centre.

The two halls of the KLC were managed separately until 1992, when the department of culture at Vefsn municipality started coordinating the management of the two halls. In the same year, the municipality of Vefsn initiated a project in cooperation with the county municipality of Nordland aiming to increase the physical activity of the general population in the county.

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[1] 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, 3.9.1994, p. 1 and EEA Supplement No 32, 3.9.1994, p. 1 as amended. 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).

[2] Adopted by the Authority by Decision No 328/05/COL of 20.12.2005, published in OJ L 109, 26.4.2007, p. 44 and EEA Supplement No 20, 26.4.2007, p. 1.

[3] The Chapter on National Regional Aid 2007–13 was adopted by the Authority by Decision No 85/06/COL of 6.4.2006, published in OJ L 54, 28.2.2008, p. 1 and EEA Supplement No 11, 28.2.2008, p. 1 and is applicable from 1 January 2007 onwards. Prior to that date, reference must be made to the provisions of the Chapter on National regional aid adopted by Decision No 316/98/COL of 4.11.1998, published in OJ L 111, 29.4.1999, p. 46 and EEA Supplement No 18, 29.4.1999, p. 1.

[4] Decision No 195/04/COL of 14 July 2004 (published in OJ L 139, 25.5.2006, p. 37 and EEA Supplement No 26, 25.5.2006, p. 1), as amended. A consolidated version of the Decision can be found online (http://www.eftasurv.int).

In 1997, as a consequence of a broadening of the cooperation with the county municipality under the so-called FYSAK programme, Vefsn municipality arranged for an expansion and renovation of the entire KLC, including the fitness centre.

In 2006 and 2007, the fitness centre was expanded with an annexe (*Mellombygningen*) linking together the existing buildings of the KLC. Furthermore, squash courts were established at the KLC. Nowadays, the KLC comprises a combined football and multi-purpose hall (*Mosjøhallen*) and outdoors facilities such as a toboggan run and a shooting range, in addition to the sports hall and the hall with indoor swimming pool established in the early 1970s and the fitness centre. However, the notification submitted by the Norwegian authorities only concerns the fitness centre.

2.2. *The financing of the KLC and its fitness centre*

Since its foundation in 1970s, the municipality of Vefsn has financed the KLC over the municipal budget. Moreover, since its foundation, the KLC has been financed by the revenues generated from fees levied on users. The prices are set by decisions of the municipal council of Vefsn. At the present time, individual users are charged a fee for the use of the fitness centre, squash courts, swimming pool and the solarium, and can choose among different types of season tickets and single tickets granting access to the various facilities. The Norwegian authorities have explained that the current system of allocation of ticket revenue entails that all revenue generated from the sale of all-access season tickets is allocated to the fitness centre. The revenue stemming from the various single tickets, including those granting access to the fitness centre, is allocated to the other facilities at the KLC. Groups of users, like local schools, seem to be charged for the use of the facilities at the KLC on a cost basis, where the compensation paid seems to be allocated to the relevant facility. In the years 2006-08, the total annual revenue generated by user fees represented between NOK 3,6 and 3,7 million. The Norwegian authorities state that approximately NOK 2,6 million (approximately 70 %) of this revenue has been allocated to the fitness centre [1].

From 2000, the municipality of Vefsn intended that the fitness centre part of the KLC was to be self-financed in the sense that the revenue generated from the fees levied on users of the fitness centre should cover all its costs. In order to ensure that the fitness centre part of the KLC is self-financed, the municipality has attempted to keep separate accounts for the fitness centre and the other activities of the KLC, where the fitness centre carries a proportionate share of common costs. However, a complete separation of accounts does not yet seem to be fully implemented [2].

According to the annual accounts of 2006-08, the fitness centre at the KLC has operated with an annual profit of between NOK 700 000 and 900 000 on account of the revenue generated by the user fees. In contrast to the fitness centre, the KLC as a whole, operates with an annual deficit. This annual deficit is covered by the operating budget of the municipality of Vefsn.

According to the NAFC, the KLC has received grants from the county municipality of Nordland. Despite the request made by the Authority, the Norwegian authorities have not provided any information regarding whether, and in that case how, these funds have been allocated to KLC and whether they were spent for the fitness centre or for other premises within the KLC.

The two expansions of the whole KLC in 1997 and 2006/07 have been financed through various sources. Regarding the 1997 expansion, it was mainly financed by a NOK 10 million loan. The Authority received no information on the identity of the lender, the terms of the loan or how it was serviced [3]. Additionally, the expansion seems to have been financed by gaming funds granted by *Norsk Tipping AS* [4].

The 2006/07 expansion was partly financed through a NOK 10 million bank loan with an interest based on three year government bonds plus 1 % [5], a proportionate part of which was intended to be serviced by the fitness centre. The expansion was further financed by NOK 4 million of gaming funds from

[1] See letter from Norwegian authorities dated 29.5.2009 (Event No 520013) p. 11.
[2] Ibid p. 12.
[3] See letter from the municipality of Vefsn to the Norwegian competition authorities dated 3.11.1998, p. 3 (added as sub-Appendix 2 to Appendix 2 of the letter from the Norwegian authorities dated 27.1.2009 (Event No 506341)). The expansion was apparently also financed through other sources, but these funds were seemingly earmarked for areas of the KLC that were not connected to the fitness centre.
[4] L.c.
[5] For 2007 the interest rate on three year government bonds was 3,74 %, consequently the interest rate for 2007 was (3,74 % + 1 %) 4,74 %.

Norsk Tipping AS, which were mainly, but apparently not exclusively, used to finance the expansion of other parts of the KLC ([1]).

2.3. *Legal basis for the financing of the KLC*

The legal basis for the financing of the KLC including the fitness centre, seems to be decisions made by the municipal council of Vefsn. According to the budgetary decisions made by Vefsn municipality, ever since the KLC was established in 1970s the operating costs of the KLC have been partly covered by the municipality's operating budget. The two expansions of 1997 and 2006/07 also seem to have been undertaken in accordance with decisions made by the municipality of Vefsn.

3. **Comments by the Norwegian authorities**

The Norwegian authorities argue that the fitness centre is run as a part of the municipal healthcare service and provides a service of general economic interest. Since 1997, the municipality of Vefsn has operated the KLC under the FYSAK programme — a programme managed by the county municipality of Nordland in order to aid the municipalities of Nordland in fulfilling their obligations to promote health in accordance with the Municipal Health Service Act ([2]). According to its Article 2(1) the municipality has a legal obligation to provide 'necessary healthcare' to anyone residing or temporarily staying within the area of the municipality. According to Articles 1(2) and 1(4), the Norwegian municipalities shall prevent and treat diseases, injuries and other health problems, and when providing such services, the municipalities shall promote public health, public well-being and the quality of the general social environment.

The Norwegian authorities hold that the financing of the fitness centre at the KLC merely represents compensation for services rendered by the fitness centre which is provided in line with the *Altmark* criteria ([3]). Consequently, it does not constitute aid within the meaning of Article 61(1) of the EEA Agreement.

In any event, the Norwegian authorities argue that the financing of the fitness centre at the KLC, as far as it could be held to constitute State aid within the meaning of Article 61(1) of the EEA Agreement, must be considered compatible either as a public service compensation on the basis of Article 59(2) of the EEA Agreement, or alternatively as a cultural measure on the basis of Article 61(3)(c) of the EEA Agreement.

4. **Comments from the NAFC**

The NAFC has submitted comments to the notification. The association holds that the fitness centre at the KLC has received State aid within the meaning of Article 61 of the EEA Agreement. As to the sources of such aid, the NAFC claims that the fitness centre has been allocated State resources from the municipality of Vefsn, *Norsk Tipping AS* and the county municipality of Nordland.

The NAFC argues that the aid can neither be held to be compatible with the functioning of the EEA on the basis of Article 61(3)(c), nor constitute a service of general economic interest within the meaning of Article 59(2). Finally, the NAFC holds that the aid exceeds the *de minimis* threshold.

II. **ASSESSMENT**

1. **Scope of the State aid assessment in this Decision**

As mentioned above under Section I.2.2, the fitness centre at the KLC has received financing from different sources. It has been financed by the municipality of Vefsn on a regular basis since its establishment. Furthermore, the KLC has received funds from *Norsk Tipping AS* whereby the Norwegian authorities have not excluded that some of these funds were allocated to the fitness centre. Finally, the fitness centre has allegedly received funds stemming from the county municipality of Nordland.

([1]) See letter from the Norwegian authorities dated 29.5.2009 (Event No 520013) p. 12.
([2]) *Lov om helsetjenesten i kommunene* of 19 November 1982 No 66. Hereinafter referred to as the MHS Act.
([3]) Case C-280/00 *Altmark Trans and Regierungspräsidium Magdeburg* (2003) ECR I-7747. See also case T-289/03 *BUPA* (2008) ECR II-81.

1.1. ***Funds stemming from the county municipality of Nordland***

The Authority received no information or documentation regarding the funds potentially received from the county municipality of Nordland. The Norwegian authorities are invited either to confirm that the fitness centre at the KLC did not receive any funds from the county municipality of Nordland or to provide the necessary information for the assessment of the State aid character of those funds and of the compatibility with the rules of the EEA Agreement.

1.2. ***Funds stemming from Norsk Tipping AS***

The funds stemming from *Norsk Tipping AS* are gaming funds collected, administered and distributed on the basis of the Gaming Act from 1992 that entered into force on 1 January 1993 ([1]), before the entry into force of the EEA Agreement. The Ministry of Culture and Church Affairs has the general responsibility for the operation of *Norsk Tipping AS*, the company entrusted with the administration of the gaming funds.

The profit generated by the activities of *Norsk Tipping AS* was originally distributed by thirds: a third for sporting purposes, a third for cultural purposes and a third for scientific purposes ([2]). By Act No 37 of 21 June 2002, the distribution formula was amended to the effect that the profits were to be distributed equally between sports and cultural objectives.

In 2003, a bill was passed that gave *Norsk Tipping AS* an exclusive right to operate slot machines. In that connection, a new distribution formula set at 18 % the allocation to non-sports related NGOs, 45,5 % for sports and 36,5 % for culture.

With reference to the case law cited in Section II,1.3 below, the Authority considers that the introduction of a new group of recipients does not affect the classification of aid granted to culture and sports ([3]).

Accordingly, the Authority considers the activities of *Norsk Tipping AS* to constitute an existing system of State aid within the meaning of the provisions of the EEA Agreement.

Although *Norsk Tipping AS* only granted financing to the fitness centre at the KLC in 1997 and 2006/07, the Authority considers that it benefited from the application of an existing system of State aid. Individual grants under an existing system do not qualify as new aid within the meaning of Article 1(c) of Part II of Protocol 3.

Thus, based on the above, the Authority considers that any gaming funds potentially allocated to the fitness centre at the KLC in connection with the 1997 or 2006/07 expansions are grants stemming from a system of existing aid within the meaning of Article 62 of the EEA Agreement. For that reason, the compatibility with the functioning of the EEA Agreement of the grant of gaming funds from *Norsk Tipping AS* to the fitness centre at the KLC is not assessed in this Decision.

1.3. ***Funds stemming from the municipality of Vefsn***

Insofar as the financing of the fitness centre at the KLC with resources from the municipality of Vefsn involves the grant of State aid, the question is whether this measure represents new or existing aid.

The KLC has been financed by the municipality of Vefsn since it was established in the early seventies. The annual deficit of the KLC has been covered by the municipal operating budget. In addition to this, the KLC has, ever since it was established, been financed by the revenue generated from various user fees, determined by the municipality. This method of financing was in place before the entry into force of the EEA Agreement on 1 January 1994, and would for these reasons as such seem to constitute existing aid within the meaning of Article 1(b)(i) of Part II of Protocol 3.

It follows from Article 1(c) to the same Protocol that alterations to existing aid constitute new aid. Moreover, it follows from the case law that where such alterations affect the actual substance of the original scheme the latter may be transformed into a new scheme. There can be no question of such a

([1]) The Gaming Act replaced Law No 92 of 20.12.1985 on Lotto.

([2]) The funds for sporting purposes are distributed by the King (i.e. the Government), whereas the funds for other purposes are partly distributed by the Norwegian Parliament (*Stortinget*), in accordance with Article 10 of the Gaming Act and Regulation No 1056 adopted on 11.12.1992, which entered into force on 1.1.1993, i.e. before the entry into force of the EEA Agreement in Norway.

([3]) The system is explained in the Preparatory Works to the amendment, Ot.prp. No 44 (2002-2003) Chapter 4.6.2.

substantive alteration where the new element is clearly severable from the initial scheme ([1]). In this regard, it is worth noting that the emergence of new aid or the alteration of existing aid cannot be assessed according to the scale of the aid or, in particular, its amount in financial terms at any moment in the life of the undertaking if the aid is provided under earlier statutory provisions which remain unaltered. Whether aid may be classified as new aid or as alteration of existing aid must be determined by reference to the provisions providing for it ([2]).

Thus, the qualification of the financing mechanism as existing aid does not mean that the financing of an expansion or alteration of the KLC necessarily would be considered as existing aid. On the contrary, alterations that are not severable from the existing scheme and that affect its substance could entail that the scheme in its entirety is considered as new aid.

Regarding the financing of the fitness centre, the KLC was established in the 1970s, and has primarily been financed by the operating budget of the municipality of Vefsn and allocation of revenue generated by user fees. The method of financing the KLC seems to have been established by decisions of the municipal council of Vefsn in the early 1970s before it was constructed, and has essentially remained unchanged since then. The debts incurred by the 2006/07 expansion were supposed to be serviced in line with this established method of financing, and accordingly the method of financing as such does not seem to have changed within the meaning of the above referenced case law. However, the Authority has not received sufficiently specific information on how the expansion of 1997 was financed. The Authority notes that the specific circumstances relating to the legal basis for the expansion and how the expansion was financed could represent changes entailing that it should be considered as alterations of existing aid.

Furthermore, the ticketing system has been changed since the entry into force of the EEA Agreement. The changes seem to have affected the price, the types of tickets offered and the system of allocation of ticket revenue. The Authority has not been provided with specific information concerning these developments, and has accordingly not been able to exclude that these changes involve a form of new aid.

Regarding the beneficiary, as far as the premises are concerned, according to the information made available to the Authority, the fitness centre was initially modestly equipped. The question is whether the sports facilities existing in the 1970s have been merely upgraded in accordance with new demands or whether the current fitness centre must be considered as a new facility. It is the Authority's understanding that the current fitness centre is not only significantly bigger but it also offers a much broader range of fitness activities than the old modestly equipped fitness centre. In this respect, the Authority has doubts as to whether the expansions of 1997 and/or 2006/07, which took place after the entry into force of the EEA Agreement, changed the character of the operations of the fitness centre. According to case law, the enlargement of the scope of activities does generally not imply that the measure involves new aid. Nevertheless, given the apparently significant changes and expansion in the activities of the fitness centre ([3]) the Authority has not been able to exclude that the classification of the aid could have changed.

1.4. *Conclusion — scope of the State aid assessment in this Decision*

Based on the lack of information regarding the funds that have allegedly been granted by the county municipality of Nordland to the fitness centre at the KLC, and the existing aid nature of the grants from *Norsk Tipping AS*, the following State aid assessment is confined to the financing of the fitness centre at the KLC with resources stemming from the municipality of Vefsn.

2. **State aid within the meaning of Article 61(1) of the EEA Agreement**

Article 61(1) of the EEA Agreement 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.'

It follows from this provision that, for State aid within the meaning of the EEA Agreement to be present, the following conditions must be met:

([1]) See Case T-195/01 *Government of Gibraltar* v *Commission* (2002) ECR II-2309 paragraph 111.
([2]) See Case C-44/93 *Namur-Les Assurances du Crédit SA* v *Office Nationale du Ducroire* (1994) ECR I-3829 paragraph 28.
([3]) See Communication from the Commission on the application of State aid rules to public service broadcasting, OJ C 257 of 27.10.2009, p. 1, paragraphs 25-31 and 80 ff.

— the aid must be granted through State resources,

— the aid must favour certain undertakings or the production of certain goods, i.e. the measure must confer a selective economic advantage upon the recipient,

— the recipient must constitute an undertaking within the meaning of the EEA Agreement,

— the aid must threaten to distort competition and affect trade between the Contracting Parties.

2.1. ***Presence of State resources***

The measure must involve the consumption of State resources and/or be granted by the State. The State for the purpose of Article 61(1) of the EEA Agreement covers all bodies of the state administration, from the central government to the municipality level or the lowest administrative level as well as public undertakings and bodies.

The municipality of Vefsn covers the annual deficit of the KLC as a whole. Municipal resources are State resources within the meaning of Article 61 of the EEA Agreement ([1]).

From 2006 to 2008, the fitness centre at the KLC has operated with an annual surplus, which stems from the revenue generated by user fees ([2]). On the other hand, the KLC as a whole, has run with an annual deficit that has been covered by the operating budget of the municipality of Vefsn. The Authority notes that the municipality of Vefsn controls the ticketing system at the KLC; the prices, the types of tickets offered and the system of allocation of ticket revenue is determined by the municipal council. If the municipality allocates ticket revenues to the fitness centre beyond those collected from the actual users of the premises of the fitness centre, these ticket revenues will qualify as State resources within the meaning of Article 61(1) of the EEA Agreement. A system of allocation of ticket revenue, under the complete control of public authorities, can involve State aid where the principles of allocation do not correspond to the customers' use of the different facilities.

The criteria applied for the allocation of revenue generated by the sale of tickets granting admission to the KLC do not appear to be particularly exact. Under the current system, all revenues generated by the sale of all-access season tickets are allocated to the fitness centre although these tickets enable the holder to access other facilities of the KLC. All revenues stemming from the various single tickets, including single tickets giving access to the fitness centre, are allocated to the other facilities at the KLC. As described in Section I.2.2 of this Decision, this entails that the fitness centre of the KLC receives about 70 % of the total ticket revenue. The Norwegian authorities state that this represents a correct allocation of revenue as an informal examination carried out in 2006 indicated that about 70 % of the adult visitors mainly use the fitness centre. However, in the absence of additional information and documentation, the Authority has doubts as to whether the current method of allocation corresponds to the customers' use of the different facilities thereby ensuring that there is no cross-subsidisation involving State resources from other parts of the KLC to the fitness centre.

As described under Section I.2.2 of this Decision, the municipality has not maintained a clear and consistent separation of the accounts for the different activities of the KLC. On the basis of this, the Authority cannot exclude that a form of cross-subsidisation of the fitness centre occurs.

Furthermore, the 2006/07 expansion was partly financed through a NOK 10 million bank loan. The fitness centre was intended to share the financing by servicing a proportionate part of the loan. However, its annual accounts from 2008 show that the fitness centre has only partially serviced its part of the loan according to the cost-allocation plan ([3]). In 2008, the fitness centre contributed NOK 185 000 in interest of the budgeted NOK 684 000, and an instalment of NOK 200 000 of the budgeted NOK 405 000. Thus, the fitness centre at the KLC only covered NOK 385 000 of the total NOK 1 089 000. The remaining part of the 2008 cost of the loan seems to have been serviced by the municipality of Vefsn. In light of this the Authority cannot to exclude that the 2006/07 expansion of the fitness centre at the KLC has been financed with resources from the municipality.

([1]) See the Authority's Decision No 55/05/COL Section II.3. p. 19 with further references, published in OJ L 324, 23.11.2006, p. 11 and EEA Supplement No 56, 23.11.2006, p. 1.
([2]) The Authority has not been provided with figures for earlier years.
([3]) This has been confirmed by Norwegian authorities in the letter dated 9.9.2009 (Event No 529846) p. 2-3.

2.2. ***Favouring certain undertakings or the production of certain goods***

In order to constitute State aid within the meaning of Article 61 of the EEA Agreement the measure must confer a selective economic advantage upon an undertaking.

2.2.1. *The concept of undertaking*

Firstly, it is necessary to establish whether the fitness centre constitutes an undertaking within the meaning of Article 61 of the EEA Agreement. According to settled case law, an undertaking encompasses every entity engaged in an economic activity, regardless of the legal status of the entity and the way it is financed ([1]). Activities consisting in offering services on a given market qualify as economic activities ([2]), and entities carrying out such activities must be classified as undertakings. The fitness centre at the KLC offers its services to the general population in competition with other undertakings operating on the same market. In light of this, the fitness centre at the KLC seems to constitute an undertaking within the meaning of Article 61 of the EEA Agreement.

2.2.2. *Compensation for providing services of general economic interest*

As the fitness centre seems to constitute an undertaking, the Authority must assess whether it has received an economic advantage within the meaning of Article 61 of the EEA Agreement.

The Norwegian authorities argue that the fitness centre is run as a part of the municipal healthcare service and provides a service of general economic interest within this context, and that the financing of the fitness centre at the KLC merely represents compensation for services rendered provided in accordance with the *Altmark* criteria ([3]), and consequently does not constitute aid within the meaning of Article 61(1) of the EEA Agreement.

Indeed, a measure is not caught by Article 61(1) of the EEA Agreement where it 'must be regarded as compensation for the services provided by the recipient undertakings in order to discharge public service obligations, so that those undertakings do not enjoy a real financial advantage and the measure thus does not have the effect of putting them in a more favourable competitive position than the undertakings competing with them' ([4]).

In the *Altmark* judgment the Court of Justice held that compensation for public service obligations does not constitute State aid when four cumulative criteria are met:

— first, the recipient undertaking must actually have public service obligations to discharge and such obligations must be clearly defined,

— second, the parameters on the basis of which the compensation is calculated must be established in advance in an objective and transparent manner,

— third, the compensation cannot exceed what is necessary to cover all or part of the costs incurred in the discharge of the public service obligations, taking into account the relevant receipts and a reasonable profit,

— finally, where the undertaking which is to discharge public service obligations is not chosen pursuant to a public procurement procedure which would allow for the selection of the tenderer capable of providing those services at the least cost, the level of compensation needed must be determined on the basis of an analysis of the costs which a typical undertaking, well run and adequately equipped, would have incurred ([5]).

When these four criteria are met cumulatively, the State compensation does not confer an advantage upon the undertaking. As to the present case, the Authority is in doubt as to whether the fitness centre at the KLC is entrusted with a clearly defined public service obligation as required under the first *Altmark* criterion ([6]). Furthermore, the Authority has doubts as to whether the method of calculating the compensation has been

([1]) Case C-41/90 *Höfner and Elsner* v *Macrotron Gmbh* (1991) ECR I-1979 paragraph 21.
([2]) Case C-35/96 *Commission* v *Italy* (1998) ECR I-3851 paragraph 36.
([3]) Case C-280/00 *Altmark Trans and Regierungspräsidium Magdeburg*, cited above.
([4]) Case C-280/00, *Altmark Trans and Regierungspräsidium Magdeburg*, cited above, paragraph 87.
([5]) Case C-280/00 *Altmark Trans and Regierungspräsidium Magdeburg*, cited above, paragraphs 89-93.
([6]) With regard to the question of whether the fitness centre at the KLC is entrusted with a clearly defined service obligation, see Section II.4.1.

established in advance in an objective and transparent manner (the 2nd *Altmark* criterion). Moreover it cannot be determined at this stage on the basis of the information provided that it does not exceed what is necessary (the 3rd *Altmark* criterion) ([1]). Finally, the Authority notes that the fitness centre at the KLC has not been selected in a public procurement procedure and that the Norwegian authorities have not provided the Authority with information enabling a verification of whether the costs incurred by the fitness centre at the KLC correspond to the costs of a typical undertaking, well run and adequately equipped as required by the fourth *Altmark* criterion. Thus, the Authority cannot exclude that the financing of the fitness centre at the KLC gives it an advantage.

Should an advantage have been granted to the fitness centre at the KLC, it would be selective as it only concerns this particular undertaking.

2.3. *Distorting competition and affecting trade between Contracting Parties*

The aid measure must distort competition and affect trade between the Contracting Parties. Under settled case law, the mere fact that a measure strengthens the position of an undertaking compared with other undertakings competing in intra-EEA trade, is enough to conclude that the measure is likely to affect trade between Contracting Parties and distort competition between undertakings established in other EEA States ([2]).

The State resources allocated to the fitness centre at the KLC seem to constitute an advantage that strengthens the fitness centre's position compared to that of other undertakings competing in the same market. Therefore, the measure seems to threaten to distort competition between undertakings.

The question is whether the financing of the fitness centre at the KLC threatens to affect intra-EEA trade.

A privately owned fitness centre, *Friskhuset Mosjøen* ([3]), a franchisee under the *Friskhuset* franchisor, is established in Mosjøen, the same city as the KLC. Based only on the available information, the Authority has not been able to determine whether the franchisor or the franchisee are involved in intra-EEA trade.

Regardless of this, the financing of the fitness centre at the KLC might threaten to affect intra-EEA trade in other ways. In the practice of the European Commission, the geographical attraction zone of a service has been held to be an important benchmark when establishing a measure's effect on intra-EEA trade ([4]). In the Authority's view, fitness centres, in general, seem to provide a service which by its very nature has a limited attraction zone. Based on the information made available to the Authority, the fitness centre at KLC does not seem to be so unique as to attract visitors from afar. Furthermore, the KLC is situated approximately 60 km (by road) from the nearest Swedish border. A distance of about 50 km from the closest EEA State was held to be sufficient to exclude impact on intra-EEA trade from the operation of a swimming pool in Dorsten, Germany ([5]).

Further indications of lack of effect on intra-EEA trade, held to be relevant in Commission practice, seem to be present. The fitness centre at the KLC does not belong to a wider group of undertakings ([6]). The information provided to the Authority does not indicate that the fitness centre at the KLC attracts investments to the region where it is established ([7]).

Moreover, the Authority has not been provided with sufficient information relating to the market share of the fitness centre at the KLC to make a thorough assessment of the impact, or lack thereof, on intra-EEA trade ([8]).

([1]) See Section II.4.1.

([2]) Case 730/79 *Philip Morris Holland* (1980) ECR 2671 paragraphs 11-12.

([3]) The ownership of the privately owned fitness centre has changed over the years. It has been owned by *Centrum Fysikalske Institutt AS* which in the year 2000 merged with another undertaking and changed name to *Helsehuset Fysioterapi og Manuell Terapi Mosjøen AS*. From 2007 the fitness centre operated as a franchisee under the *Friskhuset* franchisor. The Authority has doubts as to whether any of the previous owners have been involved in intra-EEA trade.

([4]) See notice from the Commission on a simplified procedure for treatment of certain types of State aid, published in OJ C 136, 16.6.2009, p. 3 paragraph 5(b) viii, footnote 6 which references the following Commission Decisions in Cases N 258/2000 (Germany, leisure pool Dorsten), N 486/02 (Sweden, Aid in favour of a congress hall in Visby), N 610/01 (Germany, Tourism infrastructure program Baden-Württemberg) and N 377/07 (the Netherlands, support to Bataviawerf).

([5]) See Commission Decision in Case N 258/2000. See also Commission Decision in Case N 610/01 Section 4.3.

([6]) See the criteria listed in the notice from the Commission on a simplified procedure for treatment of certain types of State aid, published in OJ C 136, 16.6.2009, p. 3 paragraph 5(b) viii, footnote 6.L.c.

([7]) L.c.

([8]) L.c.

It is worth noting that several of the undertakings active on the Norwegian fitness centre market are involved in intra-EEA trade. However, it seems that these undertakings tend to establish fitness centres in more densely populated areas than that of Vefsn municipality [1].

In light of the above, the Authority is in doubt as to whether the financing of the fitness centre at the KLC threatens to affect intra-EEA trade.

2.4. *Conclusion on the presence of State aid*

The Authority consequently has doubts as to whether the measures under scrutiny involve State aid within the meaning of Article 61 of the EEA Agreement.

3. **Notification requirement and standstill obligation**

The Norwegian authorities submitted a notification of the financing of the fitness centre at the KLC on 27 January 2009 (Event No 506341). Insofar as the financing of the fitness centre at the KLC may constitute State aid within the meaning of Article 61 of the EEA Agreement, and that this aid constitutes 'new aid' within the meaning of Article 1(c) of Part II of Protocol 3, the Norwegian authorities should have notified the aid before putting it into effect pursuant to Article 1(3) of Part I of Protocol 3.

It should be recalled that any new aid which is unlawfully implemented and which is finally not declared compatible with the functioning of the EEA Agreement is subject to recovery in accordance with Article 14 of Part II of Protocol 3. However, the Authority notes that any State aid granted more than 10 years before any action is taken by the Authority is deemed to be existing aid not subject to recovery pursuant to Article 15 of Part II of Protocol 3.

4. **Compatibility of the aid**

The Norwegian authorities have argued that the financing of the fitness centre at the KLC, as far as it is held to constitute State aid within the meaning of Article 61(1) of the EEA Agreement, must be considered to be compatible either as compensation for providing a service of general economic interest on the basis of Article 59(2) of the EEA Agreement, or alternatively as a cultural measure on the basis of Article 61(3)(c) of the EEA Agreement.

4.1. *Service of general economic interest — Article 59(2) of the EEA Agreement*

Article 59(2) of the EEA Agreement reads as follows:

'Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in this Agreement, in particular to the rules on competition, in so far as the application of such rules do not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Contracting Parties.'

The Norwegian authorities consider that operating the fitness centre at the KLC, as such, constitutes a service of general economic interest [2]. The Norwegian authorities argue that the purpose of operating the fitness centre at the KLC is to stimulate all the residents of the municipality of Vefsn to be more physically active and consequently improve the general health of the local population. However, there seems to be no specific mechanisms in place ensuring that the fitness centre at the KLC is available to as many users as possible. The so-called FYSAK pass seems to be available to everyone above the age of 15 at the same price, there seems to be no specific means-tested discount available to those of lesser means, although some discounts seem to be granted for young people below the age of 20 and senior citizens [3]. The Norwegian authorities seem to acknowledge this by stating that '(a) very small number of groups are excluded due to price' [4]. In that sense, the fitness centre seems to function, at least partly, as a normal fitness centre. Furthermore, the Authority questions whether there is a need to subsidise a fitness centre in the specific area of Mosjøen since a privately owned fitness centre has been operating in the same city for more than a decade.

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[1] Vefsn municipality is located in the second northernmost county of Norway. The KLC is located in a region eligible for regional aid, see the Authority's Decision No 226/06/COL of 19.7.2006, published in OJ L 54, 28.2.2008, p. 21 and EEA Supplement No 11, 28.2.2008, p. 19.

[2] See letter accompanying the notification of the measure dated 27.1.2009 (Event No 506341), p. 14-19, and letter from Norwegian authorities dated 29.5.2009 (Event No 520013) p. 3-7.

[3] See http://www.kippermoen.com/index.asp?side=priser

[4] See letter from Norwegian authorities dated 29.5.2009 (Event No 520013) p. 13.

The Authority acknowledges that the Norwegian authorities have a wide margin of discretion regarding the nature of services that could be classified as constituting services of general economic interest [1]. However, in light of the above, the Authority has doubts as to whether the operation the fitness centre at the KLC can constitute a service of general economic interest within the meaning of Article 59(2) of the EEA Agreement.

In this respect, reference is made to the Authority's guidelines on State aid in the form of public service compensation [2]. The following cumulative criteria must be fulfilled in order for a State aid measure to be considered compatible with the functioning of the EEA Agreement on the basis of Article 59(2) in conjunction with the public service guidelines:

— the service must constitute a genuine service of general economic interest,

— the undertaking must be entrusted with the operation of the service by way of one or more official acts,

— the amount of compensation must not exceed what is necessary to cover the costs incurred in discharging the service.

According to the information provided by the Norwegian authorities, the fitness centre seems to provide certain special preventive and convalescent services to individuals with specific needs in accordance with the municipality's obligations under Article 1-2 of the MHS Act. Such services seem to be provided to individuals with a so-called FYSAK prescription (*FYSAK Resept*) which can be obtained from a doctor, physical therapist or certain public bodies [3]. However, the Authority has not received specific information pertaining to how the fitness centre at the KLC is compensated for providing such services, and cannot exclude that the compensation does not exceed what is necessary within the meaning of the public service guidelines.

At this stage, the Authority has not been able to assess whether the financing of the fitness centre at the KLC in part or in full can constitute compensation for a service of general economic interest that could be compatible with the functioning of the EEA within the meaning of Article 59(2).

4.2. *Article 61(3)(c) of the EEA Agreement*

Article 61(3) of the EEA Agreement reads as follows:

> 'The following may be considered to be compatible with the functioning of this Agreement: […] (c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.'

The Norwegian authorities hold that the aid granted to the fitness centre at the KLC should be considered compatible with the functioning of the EEA Agreement on the basis of the exemption in Article 61(3)(c) of the EEA Agreement, and more specifically that the operation of the fitness centre must be regarded as a measure to promote culture within the meaning of the provision in Article 107(3)(d) of the Treaty on the Functioning of the European Union.

The EEA Agreement does not include a corresponding provision. The Authority nevertheless acknowledges that State aid measures may be approved on cultural grounds on the basis of Article 61(3)(c) of the EEA Agreement [4].

In this respect, reference must be made to the European Commission's White Paper on Sports [5], which acknowledges that sport is crucial to the well-being of European society. The vast majority of sporting activities take place in non-profit making structures, many of which depend on public support to provide access to sporting activities to all citizens.

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[1] See the public service guidelines paragraph 8.
[2] Hereinafter referred to as the public service guidelines.
[3] See http://www.kippermoen.com/index.asp?side=akt_res
[4] See for example paragraph 7 (with further references) of the Chapter of the Authority's guidelines on State aid to cinematographic and other audiovisual work, adopted by the Authority by Decision No 774/08/COL of 17 December 2008, not yet published in the OJ or the EEA Supplement, available at the Authority's web page (http://www.eftasurv.int/state-aid/legal-framework/state-aid-guidelines/).
[5] White Paper on Sport, COM(2007) 391 final.

However, based on the information available, the Authority has doubts as to whether the operation of the fitness centre at the KLC constitutes a cultural activity.

The Authority notes that the KLC is located in a region eligible for regional aid ([1]) and points to the fact that financing connected to the expansion of 2006/07 could under certain circumstances be considered compatible with the functioning of the EEA Agreement ([2]). However, the information made available to the Authority during its preliminary examination of the financing of the fitness centre at the KLC does not enable it to make a definite assessment of this question.

5. **Conclusion**

Based on the information submitted by the Norwegian authorities, the Authority cannot exclude the possibility that the funds received by the fitness centre at the KLC constitute State aid within the meaning of Article 61(1) of the EEA Agreement.

As explained under Section II.1.2 above, the Authority considers that the funds stemming from *Norsk Tipping AS* have been granted in accordance with an existing aid scheme, they are not covered by this Decision to open the formal investigation procedure.

The Authority has doubts as to whether the financing of the fitness centre at the KLC with funds stemming from the municipality of Vefsn, in particular concerning those funds allocated on the basis of the two expansions in 1997 and 2006/07, constitute 'new aid', which pursuant to Article 1(3) of Part I of Protocol 3 should have been notified to the Authority prior to its implementation.

The Authority has doubts as to whether the aid granted is compatible with the functioning of the EEA Agreement, in accordance with Article 59(2) or Article 61(3)(c) of the EEA Agreement.

In accordance with Article 4(4) of Part II of Protocol 3, the Authority is obliged to open the procedure provided for in Article 1(2) of Part I of Protocol 3. The decision to open proceedings is without prejudice to the final decision of the Authority, which may conclude that the measures in question do not constitute State aid, are to be classified as existing aid or are 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) of Part I of Protocol 3, invites the Norwegian authorities to submit their comments within one month of the date of receipt of this Decision.

In light of the foregoing considerations, within one month of receipt of this Decision, the Authority request the Norwegian authorities to provide all documents, information and data needed for assessment of the compatibility of the financing of the fitness centre at the KLC. In particular, the Authority invites the Norwegian authorities to provide detailed information regarding any funding from the county municipality of Nordland to the fitness centre at the KLC, as mentioned under Section II.1.1 of this Decision.

It invites the Norwegian authorities to forward a copy of this Decision to the potential aid recipient of the aid immediately.

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

([1]) See the regional aid maps of assisted areas for Norway registered in the Authority's Decision No 327/99/COL of 16.12.1999 and Decision No 226/06/COL of 19.7.2006.

([2]) For any aid granted after 1 January 2007, Chapter of the Authority's guidelines on National Regional Aid 2007-13. For aid granted before that date, reference must be made to the provisions of the Chapter on National Regional Aid adopted by Decision No 319/98/COL of 4.11.1998.

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 financing of the fitness centre at the Kippermoen Leisure Centre.

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, 16 December 2009.

For the EFTA Surveillance Authority

Per SANDERUD
President

Kristján Andri STEFÁNSSON
College Member

Invito a presentare osservazioni ai sensi dell'articolo 1, paragrafo 2, della parte I del protocollo 3 dell'accordo tra gli Stati EFTA sull'istituzione di un'Autorità di vigilanza e di una Corte di giustizia, in materia di aiuti di Stato, relativamente alla vendita di un terreno a Asker Brygge AS da parte del comune di Asker

(2010/C 184/06)

Con decisione n. 538/09/COL del 16 dicembre 2009, riprodotta nella lingua facente fede nelle pagine che seguono la presente sintesi, l'Autorità di vigilanza EFTA ha avviato un procedimento ai sensi dell'articolo 1, paragrafo 2, della parte I del protocollo 3 dell'accordo tra gli Stati EFTA sull'istituzione di un'Autorità di vigilanza e di una Corte di giustizia. Le autorità norvegesi sono state informate mediante invio di una copia della suddetta decisione.

L'Autorità di vigilanza EFTA invita gli Stati EFTA, gli Stati membri dell'Unione europea e le parti interessate a inviare eventuali osservazioni sulla misura in questione entro un mese dalla data di pubblicazione del presente avviso al seguente indirizzo:

Autorità di vigilanza EFTA
Registro
Rue Belliard 35
1040 Bruxelles/Brussel
BELGIQUE/BELGIË

Le osservazioni saranno comunicate alle autorità norvegesi. Su richiesta scritta e motivata degli autori delle osservazioni, la loro identità non sarà rivelata.

SINTESI

Con lettera ricevuta dalle Autorità il 13 febbraio 2009, le autorità norvegesi hanno notificato la vendita di un appezzamento di terreno da parte del comune di Asker all'impresa Asker Brygge AS.

Nel 2001 il comune di Asker e Asker Brygge hanno concluso un accordo che conferiva a Asker Brygge un diritto di opzione per l'acquisto di un terreno fino al 31 dicembre 2009 per un importo fisso di 8 milioni di NOK, adeguato in funzione dell'indice dei prezzi al consumo. Nel 2005 Asker Brygge si è avvalsa del suddetto diritto di opzione. Al termine delle trattative, le parti hanno concordato un prezzo di vendita di 8 727 462 NOK e il 21 marzo 2007 hanno concluso un accordo di vendita. Il terreno è stato trasferito a Asker Brygge lo stesso giorno, fermo restando che l'importo sarebbe stato pagato in due rate, come già stipulato nell'accordo di opzione del 2001. La seconda rata, corrispondente al 70 % dell'importo della vendita (6 109 223 NOK), deve essere versata entro il 31 dicembre 2011. Il comune di Asker non applicherà alcun tasso di interesse su questa seconda rata.

L'Autorità nutre dubbi sul fatto che la transazione per la vendita dell'appezzamento di terreno sia avvenuta secondo il principio dell'investitore operante in un'economia di mercato. Le condizioni della vendita a una data successiva erano state stabilite nell'accordo di opzione firmato nel 2001. L'Autorità ha pertanto verificato se l'accordo di opzione del 2001 fosse stato concluso a condizioni di mercato. L'Autorità si chiede se Asker Brygge abbia pagato per l'opzione in quanto tale e se le condizioni favorevoli per l'acquirente siano state controbilanciate da obblighi corrispondenti per quest'ultimo o da diritti per il venditore. Oltre a conferire a Asker Brygge il diritto di acquistare la proprietà in qualsiasi momento negli anni successivi, l'accordo di opzione fissava il prezzo di questo trasferimento. L'opzione comportava quindi la possibilità per Asker Brygge di osservare l'andamento dei prezzi delle proprietà per un certo numero di anni e di avvalersi successivamente dell'opzione, acquistando il terreno al prezzo concordato nel 2001, mentre al comune non era consentito vendere la proprietà ad altri nello stesso periodo. L'opzione permetteva inoltre a Asker Brygge di negoziare attivamente con il comune perché le regole relative alla proprietà fossero rivedute onde aumentarne il valore di mercato. In caso di mancata vendita, inoltre, il comune non avrebbe ricevuto alcun pagamento.

L'accordo di opzione comprendeva anche altri elementi tali da aumentare il valore dell'opzione: contrariamente al comune, Asker Brygge aveva il diritto di chiedere che il prezzo venisse rinegoziato in caso di forte diminuzione dei prezzi immobiliari; il prezzo è stato adeguato in base all'indice dei prezzi al consumo sebbene i prezzi immobiliari non siano inclusi in tale indice; il comune di Asker ha accettato di rinviare senza interessi di mora il pagamento del 70 % del prezzo di vendita concordato, sebbene la piena proprietà del terreno sia stata trasferita immediatamente.

Per questi motivi, l'Autorità dubita che un operatore privato avrebbe concluso un accordo di opzione così lungo, a condizioni analoghe a quelle del comune di Asker, senza chiedere una contropartita per l'opzione e le condizioni favorevoli in quanto tali.

Poiché a questo stadio non è possibile stabilire se l'accordo di opzione rispettasse i criteri del principio dell'investitore operante in un'economia di mercato, l'Autorità deve procedere ad un esame più approfondito per stabilire se la proprietà sia stata trasferita a un prezzo inferiore al valore di mercato nel 2007, quando la vendita è stata effettivamente realizzata, e se Asker Brygge abbia pertanto ricevuto un aiuto di Stato ai sensi dell'articolo 61 del SEE. L'Autorità ha confrontato il prezzo di 8 727 462 NOK pagato da Asker Brygge con le informazioni disponibili sul valore di mercato della proprietà al momento della vendita. Le autorità norvegesi hanno presentato tre stime del valore della proprietà. La prima relazione, datata 30 giugno 2006, stimava il valore del terreno nel 2001, anno in cui è stato concluso il contratto di opzione, a 9,6 milioni di NOK, con una possibile variazione di +/– 15 %. Una seconda relazione, datata 18 gennaio 2008, stimava il valore di mercato del terreno nel 2007 a 26 milioni di NOK, che corrispondevano a 17 milioni di NOK nel 2001. La terza relazione, datata 16 giugno 2008 e elaborata dagli stessi valutatori, rettificava il valore portandolo a 14 milioni di NOK nel 2007 e a 8 milioni di NOK nel 2001 per tener conto di una riduzione derivante da un obbligo supplementare imposto a Asker Brygge per quanto riguarda l'uso di una parte della proprietà ad opera di Slependen Båtforening AS.

L'Autorità si chiede se una delle relazioni, e in tal caso quale, stabilisca correttamente il valore della proprietà gbnr 32/17, se per la proprietà sia stato pagato il prezzo di mercato e se un investitore privato operante in un'economia di mercato avrebbe accettato un rinvio senza interessi del pagamento dell'importo della vendita.

Le misure di sostegno di cui all'articolo 61, paragrafo 1, dell'accordo SEE sono generalmente incompatibili con il funzionamento dell'accordo stesso, a meno che possano beneficiare di una deroga ai sensi dei paragrafi 2 o 3 del medesimo articolo. Ciò nonostante, l'Autorità non è sicura che la transazione oggetto della valutazione possa essere giustificata in conformità delle disposizioni dell'accordo SEE in materia di aiuti di Stato.

Conclusioni

Alla luce delle suddette considerazioni, l'Autorità di vigilanza ha deciso di avviare il procedimento d'indagine formale di cui all'articolo 1, paragrafo 2, dell'accordo SEE. Le parti interessate sono invitate a presentare osservazioni entro un mese dalla pubblicazione della presente decisione nella *Gazzetta ufficiale dell'Unione europea*.

EFTA SURVEILLANCE AUTHORITY DECISION

No 538/09/COL

of 16 December 2009

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 notification of sale of land in the municipality of Asker

(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,

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 [4],

[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.
[4] Hereinafter referred to as Protocol 3.

Having regard to the Authority's Guidelines on the application and interpretation of Articles 61 and 62 of the EEA Agreement [1], and in particular the chapter on State aid elements in sales of land and buildings by public authorities [2],

Having regard to the Authority's Decision of 14 July 2004 on the implementing provisions referred to under Article 27 of Part II of Protocol 3 [3],

Whereas:

I. FACTS

1. Procedure

By letter of 15 December 2008 (Event No 508884), received by the Authority on 13 February 2009, the Norwegian authorities notified a sale of land by the municipality of Asker, pursuant to Article 1(3) of Part I of Protocol 3.

By letter dated 8 April 2009 (Event No 512188), the Authority requested additional information. The Norwegian authorities replied by letter dated 11 May 2009 (Event No 518079).

By letter of 7 July 2009 (Event No 521778), the Authority sent a second request for information. The Norwegian authorities responded by letter dated 14 August 2009 (Event No 527555).

2. Description of the notification

The Norwegian authorities have notified a sale of a plot of land by the municipality of Asker to the company Asker Brygge AS (hereinafter referred to as Asker Brygge).

The municipality of Asker and Asker Brygge entered into an agreement in 2001 (hereinafter referred to as the option agreement), according to which Asker Brygge was granted an option, lasting until 31 December 2009, to buy land for a fixed sum of NOK 8 million, adjusted according to the consumer price index. According to the option agreement the municipality intended to give Asker Brygge the option to buy the property at market price provided that Asker Brygge undertook extensive planning and research with the aim of obtaining a reregulation of the property and then developing the property.

In 2004 the option agreement was renewed, and the validity of the option was extended until 31 December 2014 under similar conditions regarding the progress of the reregulation work. In 2005, Asker Brygge called upon the option to buy the land. The property is registered in the Norwegian property register as *Nesøyveien 8, gnr. 32 bnr. 17* in the municipality of Asker and is approximately 9 700 m^2. After negotiations the parties agreed to a sales price of NOK 8 727 462 and entered into a sales agreement on 21 March 2007. The land was transferred to Asker Brygge on the same date although the sales sum was to be paid in two instalments. The first instalment of 30 % of the sales sum was paid in 2007 on the date of the transfer of the property. The second and largest instalment, 70 % of the sales sum (NOK 6 109 223), is due at the latest 31 December 2011. The municipality of Asker will not charge any interest rate on the second instalment.

The municipality of Asker and Asker Brygge are of the opinion that the sales contract does not entail any State aid because the sales price reflects the market value. The Norwegian authorities have nonetheless decided to notify the transaction for reasons of legal certainty.

II. ASSESSMENT

1. The presence of State aid within the meaning of Article 61(1) EEA Agreement

Article 61(1) of the EEA Agreement 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

[1] 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, 3.9.1994, p. 1 and EEA Supplement No 32, 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/).

[2] Hereinafter referred to the Guidelines on sale of land.

[3] Decision No 195/04/COL of 14 July 2004 (published in OJ L 139, 25.5.2006, p. 37 and EEA Supplement No 26, 25.5.2006, p. 1), as amended. A consolidated version of the Decision can be found online (http://www.eftasurv.int).

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'.

1.1. ***Market investor principle***

1.1.1. *Introduction*

If the transaction was carried out in accordance with the market economy investor principle, i.e. if the municipality sold the land for 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.

In the following the Authority will assess whether the municipality of Asker has granted illegal State aid to Asker Brygge in connection with the sale of the plot of land gbnr 32/17. The sale of land could qualify as State aid if the sale was not carried out at market price. As a point of departure, the assessment of whether a property has been sold at market value should be assessed at the time of the conclusion of the contract. The circumstances of this sale of land are somewhat particular in the sense that there exists several agreements concerning the sale: An option agreement from 2001, an extended option agreement from 2004 and a sales agreement from 2007.

The option agreement not only gave Asker Brygge a right to acquire the property at any given time over the years to come but also fixed the price for a later transfer. The option thereby entailed a possibility for Asker Brygge to observe the development of property prices over a number of years, thereafter to take up the option to buy the property for the price agreed in 2001. While the Authority fully recognises the right for public authorities also to operate in a market on commercial terms, it nevertheless finds reason to consider carefully whether a similar agreement would have been concluded by a private market operator. The Authority will in that regard consider whether Asker Brygge paid for the option as such, and whether the favourable conditions for the buyer appear to be balanced by corresponding obligations for the buyer or rights for the seller.

If the option agreement as such cannot be said to comply with the private market investor principle, the Authority will assess whether the property was transferred at market value when the sales agreement was concluded in 2007. Thus, the Authority will in the following firstly assess the option agreement of 2001 (and the extension signed in 2004) and, secondly, whether the actual sale of land in 2007 was accomplished at market price.

1.1.2. *The market price of the option agreement signed in 2001*

As regards the option agreement, it has to be examined whether a private investor operating in a market economy would have chosen to enter into a similar agreement regarding the price and terms as the one signed between the municipality of Asker and Asker Brygge in 2001. In making that assessment, the Authority cannot replace the municipality's commercial judgement with its own, which implies that the municipality, as the seller of the plot of land, must enjoy a margin of judgement. There can be a number of commercially sound reasons to enter into an agreement under given conditions. When there is no plausible explanation for the municipality's choice the measure could qualify as State aid.

On the basis of the information available to the Authority, the conditions for the later sale were laid down in the option agreement signed in 2001. This agreement gave Asker Brygge a right, but not an obligation, to buy the property on predetermined conditions at any given time until 31 December 2009. On the other hand, the municipality was barred from selling the property to someone else in the same period. The main features of the option agreement which are relevant for the State aid assessment are (i) the agreed price of NOK 8 million, adjusted in accordance with the consumer price index, (ii) the right of renegotiation agreed for Asker Brygge in case property prices should decrease considerably before the option was invoked (there was no corresponding right of renegotiation for the municipality should the property prices increase considerably), (iii) the payment in two instalments, whereby 70 % of the sales price would be paid before 31 December 2011 at the latest, but no interest would be charged for this delay. In 2004 the municipality and Asker Brygge prolonged the option agreement until 2014, but did not modify any of the other conditions for the transaction.

According to the information available to the Authority, the municipality carried out no value assessment of the property before it entered into the agreement with Asker Brygge in 2001. Thus, it is not clear to the Authority on which basis the municipality arrived at the agreed price of NOK 8 million for the sale of land gbnr 32/17. In the information presented to the Authority, Asker municipality nevertheless appears to argue that this amount was indeed the market value of the property in 2001.

Even if it is assumed that NOK 8 million represented the market price for the property as such in 2001, the Authority questions whether the market value of the option agreement only corresponds to the value of the property or whether the market value of the other elements agreed upon should be taken into account. In

the Authority's view, if only the market value for the property had to be considered, that would entail that Asker Brygge got the option as such for free. As mentioned above, this option enabled the company to observe the development of property prices for a number of years. Statistically, property prices tend to increase over time. Furthermore, Asker is located close to Oslo and has experienced a continuous growth in population, something that would usually influence property prices positively.

The option agreement barred the municipality from selling the property to another buyer, and thus tied up capital for which the municipality could have found alternative uses or received interest. Indeed, the extension in 2004 prolonged the option with an additional five years without remuneration. It enabled Asker Brygge to actively approach the municipality in order to reregulate the property for purposes that would increase the market value. Moreover, the municipality would not receive any payment in case of no subsequent sale.

Under the option agreement, some aspects of a possible future sales contract were also agreed upon. In particular, regarding the reregulation of the area, Asker Brygge had an obligation to finish the preparatory works that would lead to the reregulation process. If this condition was not met, the municipality of Asker could terminate the contract. The Norwegian authorities argue that there is an uncertainty or risk connected to the reregulation process. Nevertheless, the option agreement gave Asker Brygge the opportunity to work on it for several years before deciding to buy the property, which in the opinion of the Authority reduced the risk considerably. In addition, if the property was reregulated, this would increase the value of the property. Hence, the option agreement did not entail any real risk for Asker Brygge.

In the Authority's preliminary view, that option itself, independent of whether it was exercised or not, had a value in 2001 when the agreement was concluded. From the documentation and explanations the Authority has received so far, there is no information that the buyer paid for the option as such.

The option agreement also included other elements that appear to be capable of increasing the value of the option. The first element concerns the mechanism to regulate the price. Asker Brygge had the right to request renegotiations of the price if property prices in Asker should decrease considerably before the option was invoked. As mentioned above, the agreement did not provide a corresponding right of renegotiation for the municipality should the property prices increase considerably. According to the Norwegian authorities, the background for including a right for Asker Brygge to renegotiate the agreement was that the municipality of Asker considered the property to be difficult to develop, inter alia due to the short distance to the highway (E-18), and the transaction would therefore involve substantial economic risk. The Authority however, has doubts as to whether a private market investor would have entered into such an agreement without a mutual right to adjustment if property prices should increase or decrease considerably. In this regard, the right for the municipality to adjust the price in accordance with the consumer price index appears not to be sufficient to compensate for the lack of a corresponding right of renegotiation.

In addition, the Authority doubts that the consumer price index would be the correct index to use when adjusting for changes in property prices. The consumer price index is a measure estimating the change in the average price of consumer goods and services purchased by households, and does not reflect the price movements of the property market. Property prices develop at a different pattern than other prices, and real estate prices are therefore normally not taken into account when determining the consumer price index.

In addition, the municipality of Asker agreed to postpone the payment of 70 % of the agreed sales price until 31 December 2011 at the latest [1] without charging any interest for this deferral. According to the Norwegian authorities, the postponement of full payment without any interest was accepted because the property was considered difficult to develop. The Authority doubts that a private operator would have agreed to postpone the payment over such a long period of time without requiring any interest payments. Moreover, it doubts whether a private operator would have transferred full ownership of the property before full payment had been received.

For these reasons, the Authority doubts that a private operator would have entered into such a long option agreement, on similar conditions as the municipality of Asker without requiring remuneration for the option and the favourable conditions as such. By simply requiring a remuneration corresponding to the value of the property in 2001, the municipality of Asker ran the risk of granting State aid later if property prices should increase. It is therefore necessary to examine whether the property was transferred at a price

[1] According to the sales contract clause 3, the payment shall take place prior to any building activity starts and in any case before 31.12.2011.

below market value in 2007 and whether Asker Brygge thereby received State aid within the meaning of Article 61 EEA. The Authority will therefore in the following assess the available information regarding the market value in 2007.

1.1.3. *The market value of the property at the time of the sales agreement*

In 2005, Asker Brygge called upon the option and negotiations started with the municipality. Although the conditions for the sale were laid down in the 2001 option agreement, the sales contract was concluded in 2007.

In the following, the Authority will therefore compare the price of NOK 8 727 462 paid by Asker Brygge with the market value of the property at the time of the sale.

1.1.3.1. The value of the plot of land gbnr 32/17

According to the Authority's State Aid Guidelines on sale of land, a sale of land and buildings following a sufficiently well-publicised and unconditional bidding procedure, comparable to an auction, accepting the best or only bid, is by definition at market value and consequently does not contain State aid. Alternatively, to exclude the existence of aid when a sale of land is conducted without an unconditional bidding procedure, an independent valuation should be carried out by one or more independent asset valuers prior to sales negotiations in order to establish the market value on the basis of generally accepted market indicators and valuation standards. The valuer should be independent in the execution of his tasks, i.e. public authorities should not be entitled to issue orders as regards the result of the valuation. In the case at hand, the municipality of Asker did not arrange for an unconditional bidding procedure nor collect an independent expert evaluation before entering into the agreement. Thus, the existence of State aid cannot automatically be excluded.

In the notification, the Norwegian authorities have submitted three value assessments of the property in question. None of the value assessments were conducted before the option agreement was entered into in 2001.

The first report dated 30 June 2006 was conducted by licensed property surveyors of Verditaskt AS, Takst Senteret and Agdestein ([1]). According to this report the estimated value of the land in 2001, the time the option contract was entered into, was NOK 9,6 million, with a possible variation of +/– 15 %. However, this appears to be a very approximate estimation.

The Norwegian authorities enclosed with the notification two additional value assessments which TJB Eiendomstaksering — Ek & Mosveen AS — Bjørn Aarvik had carried out on behalf of the municipality. In the first report dated 18 January 2008 ([2]), the market value of the land in 2007 was estimated at NOK 26 million. As the contract between the municipality and Asker Brygge was entered into in 2001, this price was discounted to 2001 values. The discounted value of NOK 26 million of 2007 using a rate of 5,5 % over 7,5 years was NOK 17 million in 2001.

In the second report dated 16 June 2008 ([3]), TJB Eiendomstaksering — Ek & Mosveen AS — Bjørn Aarvik estimated the market value of the land in 2007 at NOK 12 million. The discounted value of NOK 12 million of 2007 using the same discount rate as before (i.e. 5,5 % over 7,5 years) corresponded to NOK 8 million in 2001. Thus, the discrepancy between the two reports is NOK 9 million for the value of the property in 2001 and NOK 14 million for the value of the property in 2007.

The Norwegian authorities have explained that this difference is based on the estimated value reduction of an additional obligation put upon Asker Brygge with regard to the use of part of the property by Slependen Båtforening AS ([4]). The option agreement of 2001 includes a clause saying that a part of the property is let to Slependen Båtforening as a marina for small boats and that Asker Brygge would have to compensate for their right to a small-boat marina/compensation vis-à-vis the municipality of Asker if development of the property started before the rental contract expires. The rental contract expired in June 2009. Furthermore, in clause 3 of the option agreement it is stated that Asker Brygge will, together with the municipality of Asker, reach a satisfying solution regarding the needs of Slependen Båtforening within the scope of the activity at the time of the agreement.

When the option agreement was entered into in 2001, Slependen Båtforening paid an annual lease of NOK 19 500 to the municipality of Asker ([5]). Although it was difficult to state the exact economic consequence of the obligation for Asker Brygge at the time the option agreement was entered into,

([1]) Enclosure 9 to the notification.
([2]) Enclosure 5 to the notification.
([3]) Enclosure 3 to the notification.
([4]) Hereinafter referred to as Slependen Båtforening.
([5]) This sum was determined on the basis of an agreement signed in 1999 between the Municipality of Asker and Slependen Båtforening. Enclosure 8 to the letter dated 11.5.2009.

Asker Brygge and Slependen Båtforening signed an agreement on 1 June 2006 according to which the latter was to pay NOK 850 000 (cf. clause 2.4 in the agreement). According to the explanations provided by the Norwegian authorities, the value assessment from January 2008 was based on an incorrect interpretation of an agreement between Asker Brygge and Slependen Båtforening since it did not reflect the obligation to pay NOK 850 000. The asset valuers interpreted the clause in the option agreement in such a way that Slependen Båtforening would have had the right to rent or buy the boat places at market price after the expiry of the rental contract. However, the Norwegian authorities are of the opinion that the sum of NOK 850 000, which represents the fulfilment of the obligation towards Slependen Båtforening, had to be taken into consideration when the market value of the property was assessed for 2001 and 2007. Thus, the municipality of Asker instructed TJB Eiendomstaksering — Ek & Mosveen AS — Bjørn Aarvik to use NOK 850 000 as the basis for the value estimation of Slependen Båtforenings's 65 boat places in their assessment dated 16 June 2008. The Authority considers that this sum is relevant for the assessment of the 2007 property value, as this was known information at the time.

The Authority has doubts as to which of the reports correctly determine the value of the property gbnr 32/17. Furthermore, the Authority notes that the estimations of the different value assessments are not only very different but are also more uncertain due to the fact that they were carried out several years after the option agreement was entered into, and two of them, the year after the sales agreement was entered into. The latest value assessment, the second report, dated 16 June 2008 ([1]), carried out by TJB Eiendomstaksering — Ek & Mosveen AS — Bjørn Aarvik, estimated the market value of the land in 2007 at NOK 12 million, which is NOK 3 272 538 more than the price paid. This is an indication that the sale was not carried out at market price and also that the consumer price index was not the correct adjustment index. Thus, the Authority questions whether market price was paid for the property.

1.1.3.2. The value of the interest advantage of the soft loan

According to the Norwegian authorities the interest rate advantage is taken into consideration by the property surveyors in the report of 2006. However, as far as the Authority can see, the interest rate advantage is not mentioned or discussed in the report referred to, nor is it mentioned in any of the other reports.

In the opinion of the Authority, the municipality might have therefore forgone interest payments that a private market player would normally have required. Thus, the Authority has doubts as to whether a private market investor would have accepted the long deferral of payment without interest.

1.1.4. *Conclusion on the market investor principle*

For the above mentioned reasons, the Authority has doubts regarding the price agreed upon in the option agreement and whether it corresponded to the market price for such an agreement, which should reflect the property value at the time of the agreement combined with the value of the option and the special arrangements granted to the buyer. Moreover, the Authority has doubts regarding the actual price agreed upon in the sales agreement and whether it corresponded to the market price of the property at the time the sales agreement was concluded. Therefore, on the basis of the information provided by the Norwegian authorities, the Authority cannot conclude that the sale of the concerned plot of land gbnr 32/17 to Asker Brygge AS for the sales price of NOK 8 727 462 was carried out in accordance with the market investor principle.

1.2. ***State resources***

In order to qualify as State aid, the measure must be granted by the State or through State resources. The concept of 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 land below its market price, it would have foregone income. In such circumstances, Asker Brygge should have paid more for the land and therefore there is a transfer of resources from the municipality.

For these reasons, the Authority considers that if the sale did not take place in accordance with market conditions, State resources within the meaning of Article 61(1) of the EEA Agreement would be involved.

1.3. ***Favouring certain undertakings or the production of certain goods***

First, the measure must confer on Asker Brygge advantages that relieve the undertaking of charges that are normally borne from its budget. If the transaction was carried out under favourable terms, in the sense that Asker Brygge would most likely have had to pay a higher price for the property if the sale of land had been

([1]) Enclosure 3 to the notification.

conducted according to the market investor principle, and to have paid market interest rates for the loan if it was to borrow the same amount from a bank, the company would have received an advantage within the meaning of the State aid rules.

Second, the measure must be selective in that it favours 'certain undertakings or the production of certain goods'. There is only one possible beneficiary of the measure under assessment, i.e. Asker Brygge. The measure is thus selective.

1.4. *Distortion of competition and effect on trade between Contracting Parties*

The aid must distort competition and affect trade between the Contracting Parties of the EEA Agreement.

A support measure granted by the State would strengthen the position of Asker Brygge vis-à-vis other undertakings that are competitors active in the same business areas of real estate and property development. Any grant of aid strengthens the position of the beneficiary vis-à-vis its competitors and accordingly distorts competition within the meaning of Article 61(1) of the EEA Agreement. To the extent that the company is active in areas subject to intra-EEA trade, the requirements of Article 61(1) of the EEA Agreement for a measure to constitute State aid are fulfilled.

1.5. *Conclusion*

For the above mentioned reasons, the Authority has doubts as to whether or not the transaction concerning the sale of the plot of land gbnr 32/17 to Asker Brygge as laid down in the option agreement signed in 2001 and later agreements entail the grant of State aid.

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 submitted a notification of the sale of land on 13 February 2009 (Event No 508884). However, the municipality had, in 2001, already entered into an option agreement which determined the future conditions for the sale in March 2007. Moreover, the property was transferred and a soft loan granted to Asker Brygge in March 2007, when the sales agreement was signed, the transaction accomplished and the payment in instalments was agreed. Therefore, the Authority concludes that if the measure constitutes State aid, the Norwegian authorities have not respected their obligations pursuant to Article 1(3) of Part I of Protocol 3.

3. **Compatibility of the aid**

Support measures caught by Article 61(1) of the EEA Agreement are generally incompatible with the functioning of the EEA Agreement, unless they qualify for a derogation in Article 61(2) or (3) of the EEA Agreement.

The derogation of Article 61(2) is not applicable to the aid in question, which is not designed to achieve any of the aims listed in this provision. Nor does Article 61(3)(a) or Article 61(3)(b) of the EEA Agreement apply to the case at hand. Further, the area where the property is located cannot benefit from any regional aid within the meaning of Article 61(3)(c) of the EEA Agreement.

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 has doubts as to whether or not Asker Brygge has received unlawful State aid within the meaning of Article 61(1) of the EEA Agreement in the context of the transaction regarding the sale of a plot of land.

The Authority has moreover doubts that this State aid can be regarded as complying with Article 61(3)(c) of the EEA Agreement.

Consequently, and in accordance Article 4(4) of Part II of Protocol 3, the Authority is obliged to open the procedure provided for in Article 1(2) of Part I of Protocol 3. The decision to open proceedings is without prejudice to the final decision of the Authority, which may conclude that the measures in question are 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) of Part I of Protocol 3, invites the Norwegian authorities to submit their comments within one month of the date of receipt of this Decision.

In light of the foregoing considerations, within one month of receipt of this decision, the Authority request the Norwegian authorities to provide all documents, information and data needed for assessment of the compatibility of the said transaction.

It invites the Norwegian authorities to forward a copy of this decision to Asker Brygge immediately.

The Authority would like to remind the Norwegian authorities that, according to the provisions of Protocol 3, any incompatible aid unlawfully put at the disposal of the beneficiaries will have to be recovered, unless this recovery would be contrary to the general principal of 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 transaction concerning the sale of the plot of land gbnr 32/17 to the company Asker Brygge AS by the municipality of Asker.

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, 16 December 2009.

For the EFTA Surveillance Authority

Per SANDERUD
President

Kristján Andri STEFÁNSSON
College Member

V

(Avvisi)

PROCEDIMENTI AMMINISTRATIVI

COMMISSIONE EUROPEA

INVITO A PRESENTARE PROPOSTE — EAC/10/10

Programma per l'apprendimento permanente — Sostegno per due concorsi riguardanti la promozione dell'apprendimento delle lingue mediante brevi produzioni audiovisive

(2010/C 184/07)

1. **Obiettivi e descrizione**

Il presente invito a presentare proposte si basa sulla decisione n. 1720/2006/CE [1] del Parlamento europeo e del Consiglio, del 15 novembre 2006, che istituisce un programma d'azione nel campo dell'apprendimento permanente, modificata dalla decisione n. 1357/2008/CE del Parlamento europea e del Consiglio, del 16 dicembre 2008.

L'obiettivo del presente invito è di concedere un contributo finanziario per l'organizzazione di due concorsi per brevi produzioni audiovisive in due anni successivi (uno nel 2011 e uno nel 2012). I concorsi e le relative produzioni audiovisive brevi sono volti a promuovere l'apprendimento delle lingue, ponendo l'accento sui vantaggi della diversità linguistica e culturale dell'Europa.

La partecipazione delle produzioni audiovisive selezionate nel rinomato festival PRIX EUROPA costituirà l'apice della diffusione e della valorizzazione dei risultati del progetto.

2. **Candidati ammissibili**

Le organizzazioni attive nel settore della produzione audiovisiva, della pubblicità e dei media emergenti, quali scuole delle arti audiovisive e della pubblicità, sono invitate a sviluppare, gestire e coordinare i concorsi.

I candidati devono risiedere in uno dei seguenti paesi:

— i 27 Stati membri dell'Unione europea,

— i paesi EFTA e SEE: Islanda, Liechtenstein, Norvegia,

— la Turchia, in qualità di paese candidato.

Sono in corso negoziati con la Croazia, l'ex Repubblica iugoslava di Macedonia e la Svizzera per quanto riguarda la futura partecipazione al programma di apprendimento permanente. Gli aggiornamenti dell'elenco dei paesi partecipanti sono disponibili sul sito web della direzione generale dell'Istruzione e della cultura.

[1] Decisione n. 1720/2006/CE del Parlamento europeo e del Consiglio del 15 novembre 2006 che istituisce un programma d'azione nel campo dell'apprendimento permanente: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:327:0045:0068:EN:PDF e decisione n. 1357/2008/CE del Parlamento europea e del Consiglio, del 16 dicembre 2008 che modifica la decisione n. 1720/2006/CE: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:350:0056:0057:FR:PDF

3. **Bilancio e durata del progetto**

Il contributo massimo è di 500 000,00 EUR per entrambi i concorsi del 2011 e del 2012.

L'aiuto finanziario della Commissione non può superare il 75 % dei costi complessivi ammissibili.

La Commissione si riserva il diritto di non assegnare tutti i fondi disponibili.

Le attività devono iniziare tra il 1º gennaio 2011 e il 31 gennaio 2011.

Le attività devono concludersi entro il 31 gennaio 2013.

La durata massima dei progetti è di 24 mesi.

4. **Termine**

Le candidature devono essere inviate alla Commissione entro il 30 settembre 2010.

5. **Informazioni complementari**

Il testo integrale dell'invito a presentare proposte e i moduli di candidatura sono disponibili sul seguente sito Internet: http://ec.europa.eu/dgs/education_culture/calls/grants_en.html

Le domande devono soddisfare i requisiti stabiliti nel testo integrale ed essere presentate utilizzando l'apposito modulo.

PROCEDIMENTI RELATIVI ALL'ATTUAZIONE DELLA POLITICA DELLA CONCORRENZA

COMMISSIONE EUROPEA

Notifica preventiva di una concentrazione

(Caso COMP/M.5908 — Honeywell/Sperian)

(Testo rilevante ai fini del SEE)

(2010/C 184/08)

1. In data 30 giugno 2010 è pervenuta alla Commissione la notifica di un progetto di concentrazione in conformità all'articolo 4 del regolamento (CE) n. 139/2004 del Consiglio ([1]). Con tale operazione l'impresa Honeywell International Inc. («Honeywell», Stati Uniti) acquisisce, ai sensi dell'articolo 3, paragrafo 1, lettera b), del comunitario regolamento sulle concentrazioni, il controllo dell'insieme dell'impresa Sperian Protection SA («Sperian», Francia) mediante acquisto di quote.

2. Le attività svolte dalle imprese interessate sono le seguenti:

— Honeywell: produttore a livello mondiale operante in diversi settori d'attività (energia e sicurezza), compreso quello delle attrezzature per la protezione personale,

— Sperian: produttore a livello mondiale di attrezzature per la protezione personale.

3. A seguito di un esame preliminare, la Commissione ritiene che la concentrazione notificata possa rientrare nel campo d'applicazione del regolamento comunitario sulle concentrazioni. Tuttavia, si riserva la decisione finale al riguardo.

4. La Commissione invita i terzi interessati a presentare eventuali osservazioni sulla concentrazione proposta.

Le osservazioni devono pervenire alla Commissione entro dieci giorni dalla data di pubblicazione della presente comunicazione. Le osservazioni possono essere trasmesse alla Commissione per fax (+32 22964301), per e-mail all'indirizzo COMP-MERGER-REGISTRY@ec.europa.eu o per posta, indicando il riferimento COMP/M.5908 — Honeywell/Sperian, al seguente indirizzo:

Commissione europea
Direzione generale della Concorrenza
Protocollo Concentrazioni
J-70
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

([1]) GU L 24 del 29.1.2004, pag. 1 («il regolamento comunitario sulle concentrazioni»).

ALTRI ATTI

COMMISSIONE EUROPEA

Pubblicazione di una domanda a norma dell'articolo 6, paragrafo 2, del regolamento (CE) n. 510/2006 del Consiglio, relativo alla protezione delle indicazioni geografiche e delle denominazioni d'origine dei prodotti agricoli e alimentari

(2010/C 184/09)

La presente pubblicazione conferisce il diritto di opporsi alla registrazione a norma dell'articolo 7 del regolamento (CE) n. 510/2006 del Consiglio ([1]). La dichiarazione di opposizione deve pervenire alla Commissione entro un termine di sei mesi dalla data della presente pubblicazione

DOCUMENTO UNICO

REGOLAMENTO (CE) N. 510/2006 DEL CONSIGLIO

«MIELE DELLE DOLOMITI BELLUNESI»

N. CE: IT-PDO-0005-0776-09.06.2009

IGP ( ) DOP (X)

1. **Denominazione:**

«Miele delle Dolomiti Bellunesi»

2. **Stato membro o paese terzo:**

Italia

3. **Descrizione del prodotto agricolo o alimentare:**

3.1. *Tipo di prodotto:*

Classe 1.4. Altri prodotti di origine animale.

3.2. *Descrizione del prodotto a cui si applica la denominazione di «Miele delle Dolomiti Bellunesi»:*

Il «Miele delle Dolomiti Bellunesi» viene prodotto, a partire dal nettare dei fiori del territorio montano bellunese, dall'ecotipo locale di «Apis mellifera» che deriva da incroci naturali tra diverse razze apistiche, prevalentemente tra quella Ligustica e Carnica; essa si è particolarmente adattata nel corso del tempo alle caratteristiche dell'ambiente montano alpino bellunese e permette di ottenere buone rese di miele.

In funzione delle differenti specie botaniche che fioriscono scalarmente durante il periodo di produzione e della conseguente origine floreale, si distinguono le seguenti tipologie di «Miele delle Dolomiti Bellunesi»: Millefiori, di Acacia, di Tiglio, di Castagno, di Rododendro e di Tarassaco.

([1]) GU L 93 del 31.3.2006, pag. 12.

A. Caratteristiche chimico-fisiche

Tutto il miele delle Dolomiti bellunesi deve avere le seguenti caratteristiche chimico-fisiche:

HMF (all'immissione al consumo) < 10 mg/kg.

Il «Miele delle Dolomiti Bellunesi» deve presentare, nelle diverse tipologie, le seguenti caratteristiche chimico-fisiche:

Tipologia miele	Acqua (%)		pH		Fruttosio + glucosio (%)		Saccarosio (%)	
	Min	Max	Min	Max	Min	Max	Min	Max
Millefiori	15	18	3,4	4,4	69	78	0	3,8
Acacia	15	18	3,7	4,1	61	77	0	10
Tiglio	16,5	17,8	4	4,1	67	70	0,8	4,6
Castagno	16,5	18	4,4	5,8	61	74	0	2,4
Rododendro	16	17,7	3,7	4,2	65	72	0,1	0,7
Tarassaco	17	18	4,3	4,7	37,8	38,5	0,1	0,4

B. Caratteristiche melisso-palinologiche

Lo spettro pollinico generale è quello caratteristico della flora di montagna. Tuttavia, a seconda della origine floreale, gli spettri pollinici delle diverse tipologie di «Miele delle Dolomiti Bellunesi» devono rispettare i seguenti requisiti:

Tipologia miele	Polline
Millefiori	in prevalenza: tarassaco, tiglio, castagno, rododendro, varie labiacee
Acacia	> 30 % di *Robinia pseudoacacia* L.
Tiglio	> 10 % *Tilia* spp.
Castagno	> 70 % di *Castanea sativa* M.
Rododendro	> 20 % di *Rododendrum* spp.
Tarassaco	> 5% < 30 % di *Taraxacum* spp.

C. Caratteristiche organolettiche

Dipendono dall'origine floreale e sono quindi diverse per le varie tipologie di miele:

Millefiori (o multiflora): colore dal giallo chiaro all'ambrato, sapore dolciastro, morbido con spiccata tendenza alla cristallizzazione.

Acacia (o Robinia): colore chiaro, ambrato, trasparente, sapore delicato e molto dolce, con profumo che ricorda i fiori di robinia, tipicamente liquido.

Tiglio: colore variabile dal giallo al verdolino, sapore con leggero retrogusto amaro, odore fresco, balsamico, aspetto pastoso con cristallizzazione ritardata.

Castagno: colore bruno scuro, sapore poco dolce, amarognolo, tannico, odore pungente e aromatico, tendenzialmente liquido.

Rododendro: da quasi incolore fino al bianco o beige chiaro dopo la cristallizzazione, sapore delicato, odore vegetale e fruttato, aspetto liquido e poi pastoso a granulazione fine.

Tarassaco: miele con riflessi gialli, poco o normalmente dolce, solitamente acido, leggermente amaro, astringente.

3.3. *Materie prime:*

Non pertinente.

3.4. *Alimenti per animali:*

Per un'eventuale nutrizione proteica con polline alle famiglie di api è vietato l'impiego di prodotti contenenti polline d'origine diversa da quella strettamente locale.

Una pratica normalmente adottata, è quella che prevede la raccolta di favi di polline o di solo polline, quest'ultimo mediante delle trappole, da essiccare o immagazzinare in congelatore durante i periodo di elevata produzione e poi da riutilizzare in periodi di minor disponibilità pollinifera.

3.5. *Fasi specifiche della produzione che devono avvenire nella zona geografica identificata:*

Il «Miele delle Dolomiti Bellunesi» viene prodotto, trasformato e lavorato nella zona geografica individuata nel punto 4.

Il miele viene prodotto in arnie stanziali o che vengono periodicamente spostate solamente all'interno del territorio montano di produzione; tale miele viene estratto direttamente dai favi dei mielari mediante centrifugazione.

La raccolta del miele avviene sempre per fasi successive, in concomitanza delle diverse fioriture, al fine di ottenere un prodotto mono-floreale differenziato.

3.6. *Norme specifiche in materia di affettatura, grattugiatura, condizionamento:*

Per il confezionamento del «Miele delle Dolomiti Bellunesi» sono utilizzati contenitori di vetro da 250, da 500 o da 1 000 grammi, chiusi con tappo metallico e sigillati con l'etichetta. E' inoltre consentito confezionare il miele in formato monodose, utilizzando piccoli contenitori in vetro, bustine, vaschette o altro contenitore in materiale idoneo.

3.7. *Norme specifiche relative all'etichettatura:*

Il logo del «Miele delle Dolomiti Bellunesi DOP» è costituito da un cerchietto irregolare così rappresentato: nella parte alta una fascia di color verde con la scritta, in caratteri bianchi, «MIELE DELLE DOLOMITI BELLUNESI»; nella parte interna, tre strisciate irregolari di colore giallo, blu e verde con schizzo delle tre cime di Lavaredo generate dalle gocce di miele trasportato dal tradizionale mestolino «raccoglimiele»; nella parte bassa la scritta con caratteri gialli «DOP» come da raffigurazione sotto riportata. E' possibile inserire in etichetta l'indicazione aggiuntiva «prodotto della montagna» in conformità alla normativa nazionale.

4. **Definizione concisa della zona geografica:**

La zona geografica di produzione del «Miele delle Dolomiti Bellunesi DOP» interessa l'intero territorio della Provincia di Belluno, tutto situato in zona montana e delimitato, nei suoi confini, da catene montuose che separano naturalmente l'area geografica dalle province e regioni limitrofe e dall'Austria nel confine settentrionale.

5. **Legame con la zona geografica:**

5.1. *Specificità della zona geografica:*

Fattori ambientali

La zona di produzione è un territorio montano, tra vallate e alte quote, che presenta caratteristiche pedoclimatiche ed ecologiche delle zone Alpine, ricco di boschi e pascoli.

Nella zona di produzione non sono presenti grossi insediamenti industriali, né attività agricole intensive e nemmeno grandi vie di comunicazione, potenziali fonti d'inquinamento anche per i prodotti dell'apicoltura. Queste condizioni permettono di ottenere un miele pulito e salubre, senza metalli pesanti o inquinanti ambientali.

Le condizioni climatico-ambientali del bellunese, come temperatura e piovosità media, ricavate dagli archivi storici, risultano fortemente differenti dalle altre zone limitrofe della pianura e alle medie regionali del Veneto e influiscono positivamente sulla secrezione nettarifera, sulla qualità del prodotto e sulla sua conservabilità.

Le basse temperature e l'elevata piovosità permettono al bellunese di detenere il primato regionale per ampiezza di superficie a prati e pascolo, determinando lo sviluppo di una flora alpina molto ricca, sviluppata in gran parte su substrati calcarei dolomitici, che conta oltre 2 200 specie (1/3 della flora dell'intero territorio nazionale) e che consente alle api di poter scegliere le migliori fonti vegetali da dove attingere il nettare e il polline.

Le Dolomiti Bellunesi erano infatti famose già nei secoli scorsi per il pregio floristico delle praterie e dei pascoli alpini; la ricchezza e la particolarità di tale flora costituisce una delle principali motivazioni scientifiche del riconoscimento comunitario, nazionale e regionale dei Parchi bellunesi.

Importantissimi, tra la flora d'alto fusto, i boschi di larice, faggio, pino silvestre e abete rosso, che caratterizzano la zona. Ai piedi delle pareti rocciose si estendono fitte foreste di latifoglie e conifere e praterie d'alta quota ricche di flora con numerose specie endemiche tra le quali rododendri, cardi, stelle alpine e da altre piante montane. Nelle vallate la flora vascolare bellunese ha una ragguardevole consistenza di oltre 1 400 entità e tra queste non sono poche quelle che meritano di essere ricordate perché endemiche, rare, o di elevato valore fitogeografico.

La flora erbacea polifita ed arborea è ricca di specie che sono considerate fra la migliori dal punto di vista apistico e pollinica, come la robinia pseudoacacia, il rododendro, il tarassaco, il tiglio, l'erica, il trifoglio, nonché un elenco lunghissimo di specie che rientra nei mieli multifloreali.

Risulta inoltre molto importante anche la presenza di flora nettarifera tipica della zona di montagna, come il castagno (*Castanea Sativa*) ed il cardo (*Cardus s.p.*) in quanto il nettare rappresenta l'alimento necessario allo svolgimento del ciclo biologico delle api. Tesi di laura e ricerche dimostrano come la produzione di nettare sia più elevata nelle piante coltivate in alta montagna rispetto a quelle che crescono in pianura.

Fattori umani

L'attività apistica è sempre stata diffusa nella montagna bellunese anche in tempi molto lontani quando, con l'uso dei bugni rustici, la raccolta del miele richiedeva una grande capacità da parte dei produttori per evitare di distruggere intere colonie di api.

Anche nei tempi più difficili, l'apicoltura è sempre stata un'attività molto praticata in questi territori con l'uso prevalente di semplici alveari villici. L'innovativa introduzione dell'arnia «Dadant Blatt» ha facilitato la mielicoltura ma ancor oggi nella montagna bellunese, l'attività apistica è condotta in modo artigianale e richiede ai produttori specifiche capacità per il posizionamento e la conduzione delle arnie, per la salvaguardia e lo sviluppo delle colonie, per il metodo raccolta e per la scelta del periodo che permette di differenziare i mieli delle diverse specie floreali, nonché per gli accorgimenti per la sua conservazione.

Oggi la maggior parte degli apicoltori opera nella Vallate Bellunese e Feltrina e, accanto a questi, ci sono anche numerosi produttori di alta quota che producono un miele particolarmente pregiato, quale il miele di rododendro.

5.2. *Specificità del prodotto:*

I mieli uniflorali rispecchiano le specie del territorio, considerate fra la migliori dal punto di vista apistico pollinico e nettarifero, come l'acacia-robinia, il rododendro, il tarassaco, il tiglio, il castagno, la maggior parte delle quali sono presenti solo nei territori montani e per questo rendono pregiato il Miele delle Dolomiti bellunesi. La tipologia Millefiori viene prodotta con una grande varietà di specie alpine, scelte dalle api fra le oltre 2 200 che caratterizzano la montagna bellunese.

Oltre al «pregio floreale», la qualità del Miele delle Dolomiti bellunesi ha altri aspetti fondamentali, come la purezza, la salubrità e l'elevata conservabilità, testimoniate anche dal basso valore di HMF, che derivano sia dalle caratteristiche della zona geografica, sia dal «savoir faire» dei produttori.

5.3. *Legame causale tra la zona geografica e la qualità o le caratteristiche del prodotto (per DOP) o una qualità specifica, la reputazione o altre caratteristiche del prodotto (per le IGP):*

L'ambiente montano alpino, caratterizzato da basse temperature, elevata piovosità e terreni di origine dolomitica, permettono lo sviluppo di una flora alpina ricca di piante arboree ed erbacee di elevato interesse apistico, rendendo il bellunese una zona adatta alla produzione di un miele pregiato, proveniente da specie vegetali presenti solo o prevalentemente nelle zone alpine montane.

Le basse temperature durante tutto l'anno, molto inferiori alla media regionale o nazionale, influiscono positivamente anche sulla qualità del miele e sulla sua conservabilità in quanto impediscono qualunque fermentazione anomala e permettono una conservazione maggiore nel tempo delle caratteristiche organolettiche e della composizione.

La bassa pressione antropica (abitanti, industrie, vie di comunicazione), lo stato di isolamento tipico delle zone di montagna e sopratutto la capacità dei produttori nel condurre professionalmente un'attività rimasta a livello artigianale, permettono di ottenere un prodotto più puro e salubre rispetto a quello ottenuto nelle zone di pianura.

L'allevamento delle api, da sempre diffuso nel Bellunese, oltre ad integrare il reddito degli abitanti, rappresentava storicamente una riserva energetica da utilizzare come alimento nei mesi d'isolamento invernale e, in cucina, come dolcificante e per la preparazione di diverse ricette tradizionali locali. Il Miele delle Dolomiti bellunesi è commercializzato con questo nome in etichetta da oltre 35 anni e, con tale nome, è presente fin dagli anni '80 a numerose fiere e manifestazioni agricole locali della montagna, come testimoniato da numerosi diplomi, foto dei produttori a raduni apistici e articoli degli anni '80. Foto dello stesso periodo, testimoniano la rinomanza del nome «Miele delle Dolomiti Bellunesi» in vari marchi ed etichette. Da sempre il miele delle Dolomiti Bellunesi è utilizzato anche in molti piatti tipici, come ingrediente per dolci e pani caratteristici cadorini ed ampezzani (del Cadore e dell' Ampezzo) nonché nel tipico liquore di miele e in abbinamento con i formaggi locali. Il prodotto é oggi molto ricercato dai consumatori, specialmente dai turisti che, riconoscendo le peculiarità che lo caratterizzano, lo acquistano nei periodi di ferie per il consumo di tutto l'anno, diffondendolo in tutte le regioni italiane.

Riferimento alla pubblicazione del disciplinare:

[Articolo 5, paragrafo 7, del regolamento (CE) n. 510/2006].

Questa Amministrazione ha attivato la procedura nazionale di opposizione pubblicando la proposta di riconoscimento della denominazione di origine protetta «Miele delle Dolomiti Bellunesi» sulla *Gazzetta ufficiale della Repubblica italiana* n. 285 del 5-12-2008.

Il testo consolidato del disciplinare di produzione è consultabile sul sito Internet:

www.politicheagricole.it/DocumentiPubblicazioni/Search_Documenti_Elenco.htm?txtTipoDocumento=
Disciplinare%20in%20esame%20UE&txtDocArgomento=
Prodotti%20di%20Qualit%E0>Prodotti%20Dop,%20Igp%20e%20Stg

oppure accedendo direttamente all'home page del sito del Ministero delle politiche agricole alimentari e forestali (www.politicheagricole.it), cliccando su «Prodotti di Qualità» (a sinistra dello schermo) ed infine su «Disciplinari di Produzione all'esame dell'UE (Reg. CE 510/2006)».

ALTRI ATTI

Commissione europea

IT

PREZZO DEGLI ABBONAMENTI 2010 (IVA esclusa, spese di spedizione ordinaria incluse)

Gazzetta ufficiale dell'UE, serie L + C, unicamente edizione su carta	22 lingue ufficiali dell'UE	1 100 EUR all'anno
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Gazzetta ufficiale dell'UE, serie L, unicamente edizione su carta	22 lingue ufficiali dell'UE	770 EUR all'anno
Gazzetta ufficiale dell'UE, serie L + C, CD-ROM mensile (cumulativo)	22 lingue ufficiali dell'UE	400 EUR all'anno
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