Eiropas Savienības

Oficiālais Vēstnesis

C 236

Izdevums latviešu valodā

Informācija un paziņojumi

59. sējums

2016. gada 30. jūnijs

Saturs

LV

([1]) Dokuments attiecas uz EEZ

PROCEDŪRAS, KAS SAISTĪTAS AR KONKURENCES POLITIKAS ĪSTENOŠANU

Eiropas Komisija

[1] Dokuments attiecas uz EEZ

II

(Informācija)

EIROPAS SAVIENĪBAS IESTĀŽU UN STRUKTŪRU SNIEGTI PAZIŅOJUMI

EIROPAS KOMISIJA

Iebildumu necelšana pret paziņoto koncentrāciju

(Lieta M.8039 – *Freudenberg/Vibracoustic*)

(Dokuments attiecas uz EEZ)

(2016/C 236/01)

Komisija 2016. gada 22. jūnijā nolēma neiebilst pret iepriekš minēto paziņoto koncentrāciju un atzīt to par saderīgu ar iekšējo tirgu. Šis lēmums pamatots ar Padomes Regulas (EK) Nr. 139/2004 [1] 6. panta 1. punkta b) apakšpunktu. Pilns lēmuma teksts ir pieejams tikai angļu valodā, un to publicēs pēc tam, kad no teksta būs izņemta visa komercnoslēpumus saturošā informācija. Lēmums būs pieejams:

— Komisijas konkurences tīmekļa vietnes uzņēmumu apvienošanos sadaļā (http://ec.europa.eu/competition/mergers/cases/). Šajā tīmekļa vietnē ir pieejamas dažādas individuālo apvienošanās lēmumu meklēšanas iespējas, tostarp meklēšana pēc sabiedrības nosaukuma, lietas numura, datuma un nozaru kodiem,

— elektroniskā veidā *EUR-Lex* tīmekļa vietnē (http://eur-lex.europa.eu/homepage.html?locale=lv) ar dokumenta numuru 32016M8039. *EUR-Lex* piedāvā tiešsaistes piekļuvi Eiropas Savienības tiesību aktiem.

[1] OV L 24, 29.1.2004., 1. lpp.

Iebildumu necelšana pret paziņoto koncentrāciju

(Lieta M.8049 – *TPG Capital / Partners Group / TH Real Estate Portfolio*)

(Dokuments attiecas uz EEZ)

(2016/C 236/02)

Komisija 2016. gada 23. jūnijā nolēma neiebilst pret iepriekš minēto paziņoto koncentrāciju un atzīt to par saderīgu ar iekšējo tirgu. Šis lēmums pamatots ar Padomes Regulas (EK) Nr. 139/2004 [1] 6. panta 1. punkta b) apakšpunktu. Pilns lēmuma teksts ir pieejams tikai angļu valodā, un to publicēs pēc tam, kad no teksta būs izņemta visa komercnoslēpumus saturošā informācija. Lēmums būs pieejams:

— Komisijas konkurences tīmekļa vietnes uzņēmumu apvienošanās sadaļā (http://ec.europa.eu/competition/mergers/cases/). Šajā tīmekļa vietnē ir pieejamas dažādas individuālo apvienošanās lēmumu meklēšanas iespējas, tostarp meklēšana pēc sabiedrības nosaukuma, lietas numura, datuma un nozaru kodiem,

— elektroniskā veidā *EUR-Lex* tīmekļa vietnē (http://eur-lex.europa.eu/homepage.html?locale=lv) ar dokumenta numuru 32016M8049. *EUR-Lex* piedāvā tiešsaistes piekļuvi Eiropas Savienības tiesību aktiem.

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[1] OV L 24, 29.1.2004., 1. lpp.

Iebildumu necelšana pret paziņoto koncentrāciju

(Lieta M.8041 – *M&G* / *Anchorage* / *PHS Group Investment*)

(Dokuments attiecas uz EEZ)

(2016/C 236/03)

Komisija 2016. gada 23. jūnijā nolēma neiebilst pret iepriekš minēto paziņoto koncentrāciju un atzīt to par saderīgu ar iekšējo tirgu. Šis lēmums pamatots ar Padomes Regulas (EK) Nr. 139/2004 [1] 6. panta 1. punkta b) apakšpunktu. Pilns lēmuma teksts ir pieejams tikai angļu valodā, un to publicēs pēc tam, kad no teksta būs izņemta visa komercnoslēpumus saturošā informācija. Lēmums būs pieejams:

— Komisijas konkurences tīmekļa vietnes uzņēmumu apvienošanās sadaļā (http://ec.europa.eu/competition/mergers/cases/). Šajā tīmekļa vietnē ir pieejamas dažādas individuālo apvienošanās lēmumu meklēšanas iespējas, tostarp meklēšana pēc sabiedrības nosaukuma, lietas numura, datuma un nozaru kodiem,

— elektroniskā veidā *EUR-Lex* tīmekļa vietnē (http://eur-lex.europa.eu/homepage.html?locale=lv) ar dokumenta numuru 32016M8041. *EUR-Lex* piedāvā tiešsaistes piekļuvi Eiropas Savienības tiesību aktiem.

[1] OV L 24, 29.1.2004., 1. lpp.

Iebildumu necelšana pret paziņoto koncentrāciju

(Lieta M.8054 – *3i Group* / *Deutsche Alternative Asset Management* / *TCR Capvest*)

(Dokuments attiecas uz EEZ)

(2016/C 236/04)

Komisija 2016. gada 24. jūnijā nolēma neiebilst pret iepriekš minēto paziņoto koncentrāciju un atzīt to par saderīgu ar iekšējo tirgu. Šis lēmums pamatots ar Padomes Regulas (EK) Nr. 139/2004 [1] 6. panta 1. punkta b) apakšpunktu. Pilns lēmuma teksts ir pieejams tikai angļu valodā, un to publicēs pēc tam, kad no teksta būs izņemta visa komercnoslēpumus saturošā informācija. Lēmums būs pieejams:

— Komisijas konkurences tīmekļa vietnes uzņēmumu apvienošanās sadaļā (http://ec.europa.eu/competition/mergers/cases/). Šajā tīmekļa vietnē ir pieejamas dažādas individuālo apvienošanās lēmumu meklēšanas iespējas, tostarp meklēšana pēc sabiedrības nosaukuma, lietas numura, datuma un nozaru kodiem,

— elektroniskā veidā *EUR-Lex* tīmekļa vietnē (http://eur-lex.europa.eu/homepage.html?locale=lv) ar dokumenta numuru 32016M8054. *EUR-Lex* piedāvā tiešsaistes piekļuvi Eiropas Savienības tiesību aktiem.

[1] OV L 24, 29.1.2004., 1. lpp.

IV

(Paziņojumi)

EIROPAS SAVIENĪBAS IESTĀŽU UN STRUKTŪRU SNIEGTI PAZIŅOJUMI

EIROPAS KOMISIJA

Euro maiņas kurss [1]

2016. gada 29. jūnijs

(2016/C 236/05)

1 euro =

	Valūta	Maiņas kurss		Valūta	Maiņas kurss
USD	ASV dolārs	1,1090	CAD	Kanādas dolārs	1,4407
JPY	Japānas jena	113,85	HKD	Hongkongas dolārs	8,6041
DKK	Dānijas krona	7,4376	NZD	Jaunzēlandes dolārs	1,5565
GBP	Lielbritānijas mārciņa	0,82550	SGD	Singapūras dolārs	1,4951
SEK	Zviedrijas krona	9,4311	KRW	Dienvidkorejas vona	1 283,15
CHF	Šveices franks	1,0854	ZAR	Dienvidāfrikas rands	16,6016
ISK	Islandes krona		CNY	Ķīnas juaņa renminbi	7,3680
NOK	Norvēģijas krona	9,3065	HRK	Horvātijas kuna	7,5273
BGN	Bulgārijas leva	1,9558	IDR	Indonēzijas rūpija	14 577,25
CZK	Čehijas krona	27,114	MYR	Malaizijas ringits	4,4594
HUF	Ungārijas forints	316,95	PHP	Filipīnu peso	52,106
PLN	Polijas zlots	4,4261	RUB	Krievijas rublis	71,0452
RON	Rumānijas leja	4,5253	THB	Taizemes bāts	39,028
TRY	Turcijas lira	3,2157	BRL	Brazīlijas reāls	3,6216
AUD	Austrālijas dolārs	1,4911	MXN	Meksikas peso	20,7331
			INR	Indijas rūpija	74,9693

[1] *Datu avots*: atsauces maiņas kursu publicējusi ECB.

Apgrozībai paredzēto euro monētu jauna valsts puse

(2016/C 236/06)

Valsts puse jaunajai 2 euro piemiņas monētai, kuru paredzēts laist apgrozībā un kuru emitē Spānija

Apgrozībai paredzētajām euro monētām ir likumīga maksāšanas līdzekļa statuss visā eurozonā. Komisija publicē visu jauno euro monētu dizainparaugu aprakstus, lai informētu visas personas, kuru profesionālā darbība ir saistīta ar monētām, un sabiedrību kopumā ([1]). Saskaņā ar Padomes 2009. gada 10. februāra secinājumiem ([2]) eurozonas dalībvalstīm un valstīm, kuras ar Eiropas Savienību noslēgušas monetāro nolīgumu, ar ko paredz euro monētu emisiju, ir atļauts laist apgrozībā piemiņas euro monētas, ievērojot konkrētus nosacījumus, jo īpaši to, ka var emitēt tikai monētas 2 euro nominālvērtībā. Šīm monētām ir tādas pašas tehniskās pazīmes kā citām 2 euro monētām, bet valsts pusē tās rotā piemiņas monētas dizains, kam ir izteikti simboliska nozīme valsts vai Eiropas mērogā.

Emitentvalsts: Spānija

Piemiņas monētas tematika: *UNESCO* pasaules kultūras un dabas mantojuma objekti – Astūrijas karalistes baznīcas

Dizainparauga apraksts: Dizainparauga priekšplānā attēlota *Santa Maria del Naranco* baznīca. Iekšējā apļa augšējā daļā puslokā redzams emitentvalsts nosaukums "ESPAÑA" un apakšā, labajā pusē – emisijas gads "2017". Iekšējā apļa kreisajā pusē redzama kaltuves zīme.

Ap monētas ārējo uzmalu izvietotas Eiropas Savienības karoga divpadsmit zvaigznes.

Emisijas apjoms: 4 miljoni monētu

Emisijas datums: 2017. gada 1. februāris

([1]) Informāciju par visu 2002. gadā emitēto monētu valsts pusēm skatīt OV C 373, 28.12.2001., 1. lpp.

([2]) Skatīt Ekonomikas un finanšu padomes 2009. gada 10. februāra sanāksmes secinājumus un Komisijas 2008. gada 19. decembra ieteikumu par kopīgām pamatnostādnēm attiecībā uz apgrozībai paredzēto euro monētu emisiju un to valsts pusēm (OV L 9, 14.1.2009., 52. lpp.).

REVĪZIJAS PALĀTA

Īpašais ziņojums Nr. 14/2016

"ES politikas iniciatīvas un finansiālais atbalsts romu integrācijai: pēdējā desmitgadē panākts ievērojams progress, taču dalībvalstīm jāiegulda papildu darbs"

(2016/C 236/07)

Eiropas Revīzijas palāta informē, ka ir publicēts Īpašais ziņojums Nr. 14/2016 "ES politikas iniciatīvas un finansiālais atbalsts romu integrācijai: pēdējā desmitgadē panākts ievērojams progress, taču dalībvalstīm jāiegulda papildu darbs".

Ziņojums ir pieejams lasīšanai vai lejupielādei Eiropas Revīzijas palātas tīmekļa vietnē: http://eca.europa.eu vai virtuālajā grāmatnīcā *EU-Bookshop*: https://bookshop.europa.eu.

DALĪBVALSTU SNIEGTA INFORMĀCIJA

Eiropas Parlamenta un Padomes Regulā (ES) 2016/399 par Savienības Kodeksu par noteikumiem, kas reglamentē personu pārvietošanos pār robežām (Šengenas Robežu kodekss) [1] 2. panta 8. punktā minēto robežšķērsošanas vietu saraksta atjauninājums

(2016/C 236/08)

Eiropas Parlamenta un Padomes Regulā (ES) 2016/399 (2016. gada 9. marts) par Savienības Kodeksu par noteikumiem, kas reglamentē personu pārvietošanos pār robežām (Šengenas Robežu kodekss), 2. panta 8. punktā minēto robežšķērsošanas vietu saraksta publicēšana pamatojas uz informāciju, ko dalībvalstis paziņo Komisijai saskaņā ar Šengenas Robežu kodeksa (kodificēta redakcija) 39. pantu.

Papildus publikācijai *Oficiālajā Vēstnesī* regulārs atjauninājums ir pieejams Iekšlietu ģenerāldirektorāta tīmekļa vietnē.

FRANCIJA

OV C 229, 14.7.2015. publicētās informācijas grozījumi

ROBEŽŠĶĒRSOŠANAS VIETU SARAKSTS

Gaisa robežas

(1) Abbeville

(2) Agen-la Garenne

(3) Ajaccio-Campo dell'Oro

(4) Albert-Bray

(5) Amiens-Glisy

(6) Angers-Marcé

(7) Angoulême-Brie-Champniers

(8) Annecy-Methet

(9) Annemasse

(10) Auxerre-Branches

(11) Avignon-Caumont

(12) Bâle-Mulhouse

(13) Bastia-Poretta

(14) Beauvais-Tillé

(15) Bergerac-Roumanière

(16) Besançon-la Vèze

(17) Béziers-Vias

(18) Biarritz-Bayonne-Anglet

(19) Bordeaux-Mérignac

(20) Brest-Guipavas

(21) Brive-Souillac

(22) Caen-Carpiquet

(23) Calais-Dunkerque

(24) Calvi-Sainte-Catherine

[1] Iepriekšējo publikāciju sarakstu skatīt šā atjauninājuma beigās.

(25) Cannes-Mandelieu

(26) Carcassonne-Salvaza

(27) Châlons-Vatry

(28) Chambéry-Aix-les-Bains

(29) Châteauroux-Déols

(30) Cherbourg-Maupertus

(31) Clermont-Ferrand-Aulnat

(32) Colmar-Houssen

(33) Deauville-Saint-Gatien

(34) Dijon-Longvic

(35) Dinard-Pleurtuit

(36) Dôle-Tavaux

(37) Epinal-Mirecourt

(38) Figari-Sud Corse

(39) Grenoble-Saint-Geoirs

(40) Hyères-le Palivestre

(41) Issy-les-Moulineaux

(42) La Môle

(43) Lannion

(44) La Rochelle-Laleu

(45) Laval-Entrammes

(46) Le Castelet

(47) Le Havre-Octeville

(48) Le Mans-Arnage

(49) Le Touquet-Paris-Plage

(50) Lille-Lesquin

(51) Limoges-Bellegarde

(52) Lognes-Emerainville

(53) Lorient-Lann-Bihoué

(54) Lyon-Bron

(55) Lyon-Saint-Exupéry

(56) Marseille-Provence

(57) Metz-Nancy-Lorraine

(58) Monaco-Héliport

(59) Montbéliard-Courcelles

(60) Montpellier-Méditérranée

(61) Nantes-Atlantique

(62) Nevers-Fourchambault

(63) Nice-Côte d'Azur

(64) Nîmes-Garons

(65) Orléans-Bricy

(66) Orléans-Saint-Denis-de-l'Hôtel

(67) Paris-Charles de Gaulle

(68) Paris-le Bourget

(69) Paris-Orly

(70) Pau-Pyrénées

(71) Perpignan-Rivesaltes

(72) Poitiers-Biard

(73) Pontoise-Cormeillcs-en-Vexin būs atvērta uz pagaidu laiku:

— no trešdienas, 2015. gada 10. jūnija, līdz svētdienai, 2015. gada 14. jūnijam, no plkst. 10.00 līdz 15.30.

Lidosta būs atvērta uz pagaidu laiku periodā, kad Buržē notiks starptautiskā aviācijas un kosmosa izstāde, kā dēļ lidojumi no valstīm, kas nav Šengenas zonā, tiks novirzīti uz Pontuāzas lidostu,

— no pirmdienas, 2015. gada 15. jūnija, līdz svētdienai, 2015. gada 21. jūnijam, no plkst. 6.00 līdz 16.30.

Lidosta būs atvērta uz pagaidu laiku periodā, kurā tiks apkalpots sezonas maršruts ar galamērķi ārpus Šengenas zonas (Kempēra–Londona).

(74) Quimper-Cornouailles, pagaidu kārtā no 2016. gada 19. maija līdz 4. septembrim;

(75) Rennes Saint-Jacques

(76) Rodez-Marcillac

(77) Rouen-Vallée de Seine

(78) Saint-Brieuc-Armor

(79) Saint-Etienne-Bouthéon

(80) Saint-Nazaire-Montoir

(81) Strasbourg-Entzheim

(82) Tarbes-Ossun-Lourdes

(83) Toulouse-Blagnac

(84) Tours-Saint-Symphorien

(85) Troyes-Barberey

(86) Vichy-Charmeil

Jūras robežas

(1) Ajaccio

(2) Bastia

(3) Bayonne

(4) Bonifacio

(5) Bordeaux

(6) Boulogne

(7) Brest

(8) Caen-Ouistreham

(9) Calais

(10) Calvi

(11) Cannes-Vieux Port

(12) Carteret

(13) Cherbourg

(14) Dieppe

(15) Douvres

(16) Dunkerque

(17) Granville

(18) Honfleur

(19) La Rochelle-La Pallice

(20) Le Havre

(21) Les Sables-d'Olonne-Port

(22) L'Ile-Rousse

(23) Lorient

(24) Marseille

(25) Monaco-Port de la Condamine

(26) Nantes-Saint-Nazaire

(27) Nice

(28) Port-de-Bouc-Fos/Port-Saint-Louis

(29) Port-la-Nouvelle

(30) Porto-Vecchio

(31) Port-Vendres

(32) Roscoff

(33) Rouen

(34) Saint-Brieuc (maritime)

(35) Saint-Malo

(36) Sète

(37) Toulon

Sauszemes robežas

Ar APVIENOTO KARALISTI

(Noteiktās pārejas pāri kanālam)

(1) Gare d'Ashford International

(2) Gare d'Avignon-Centre

(3) Cheriton/Coquelles

(4) Gare de Chessy-Marne-la-Vallée

(5) Gare de Fréthun

(6) Gare de Lille-Europe

(7) Gare de Paris-Nord

(8) Gare de St-Pancras International

(9) Gare d'Ebbsfleet International

(10) Gare TGV Haute-Picardie, 2016. gada 1. jūlijā.

Ar ANDORU

(1) Pas de la Case-Porta

Iepriekšējo publikāciju saraksts

OV C 316, 28.12.2007., 1. lpp.

OV C 134, 31.5.2008., 16. lpp.

OV C 177, 12.7.2008., 9. lpp.

OV C 200, 6.8.2008., 10. lpp.

OV C 331, 31.12.2008., 13. lpp.

OV C 3, 8.1.2009., 10. lpp.

OV C 37, 14.2.2009., 10. lpp.

OV C 64, 19.3.2009., 20. lpp.

OV C 99, 30.4.2009., 7. lpp.

OV C 229, 23.9.2009., 28. lpp.

OV C 263, 5.11.2009., 22. lpp.

OV C 298, 8.12.2009., 17. lpp.

OV C 74, 24.3.2010., 13. lpp.

OV C 326, 3.12.2010., 17. lpp.

OV C 355, 29.12.2010., 34. lpp.

OV C 22, 22.1.2011., 22. lpp.

OV C 37, 5.2.2011., 12. lpp.

OV C 149, 20.5.2011., 8. lpp.

OV C 190, 30.6.2011., 17. lpp.

OV C 203, 9.7.2011., 14. lpp.

OV C 210, 16.7.2011., 30. lpp.

OV C 271, 14.9.2011., 18. lpp.

OV C 356, 6.12.2011., 12. lpp.

OV C 111, 18.4.2012., 3. lpp.

OV C 183, 23.6.2012., 7. lpp.

OV C 313, 17.10.2012., 11. lpp.

OV C 394, 20.12.2012., 22. lpp.

OV C 51, 22.2.2013., 9. lpp.

OV C 167, 13.6.2013., 9. lpp.

OV C 242, 23.8.2013., 2. lpp.

OV C 275, 24.9.2013., 7. lpp.

OV C 314, 29.10.2013., 5. lpp.

OV C 324, 9.11.2013., 6. lpp.

OV C 57, 28.2.2014., 4. lpp.

OV C 167, 4.6.2014., 9. lpp.

OV C 244, 26.7.2014., 22. lpp.

OV C 332, 24.9.2014., 12. lpp.

OV C 420, 22.11.2014., 9. lpp.

OV C 72, 28.2.2015., 17. lpp.

OV C 126, 18.4.2015., 10. lpp.

OV C 229, 14.7.2015., 5. lpp.

OV C 341, 16.10.2015., 19. lpp.

OV C 84, 4.3.2016., 2. lpp.

To apliecību paraugu atjaunināšana, ko dalībvalstu ārlietu ministrijas izsniedz akreditētiem diplomātisko un konsulāro pārstāvniecību darbiniekiem un viņu ģimenes locekļiem, kā norādīts 20. panta 2. punktā Eiropas Parlamenta un Padomes Regulā (ES) 2016/399 par Savienības Kodeksu par noteikumiem, kas reglamentē personu pārvietošanos pār robežām (Šengenas Robežu kodekss) [1]

(2016/C 236/09)

To apliecību paraugu publicēšana, ko dalībvalstu ārlietu ministrijas izsniedz akreditētiem diplomātisko un konsulāro pārstāvniecību darbiniekiem un viņu ģimenes locekļiem, kā norādīts 20. panta 2. punktā Eiropas Parlamenta un Padomes Regulā (ES) 2016/399 (2016. gada 9. marts) par Savienības Kodeksu par noteikumiem, kas reglamentē personu pārvietošanos pār robežām (Šengenas Robežu kodekss), pamatojas uz informāciju, ko dalībvalstis dara zināmu Komisijai saskaņā ar Šengenas Robežu kodeksa (kodificēta redakcija) 39. pantu.

Papildus publikācijai *Oficiālajā Vēstnesī* ikmēneša atjauninājums ir pieejams Iekšlietu ģenerāldirektorāta tīmekļa vietnē.

ŠVEICE

OV C 133, 1.5.2014., publicētās informācijas aizstāšana ar citu informāciju

ĀRLIETU MINISTRIJAS IZSNIEGTAS ĪPAŠAS UZTURĒŠANĀS ATĻAUJAS

Federālā ārlietu departamenta personas apliecības (uzturēšanās atļaujas):

— "B" kategorijas personas apliecība (ar rozā līniju): diplomātisko, pastāvīgo vai īpašo pārstāvniecību vadītāji, starptautisko organizāciju vadošie darbinieki un viņu ģimenes locekļi, kuriem ir tāds pats statuss / *Legitimationskarte „B" (mit rosafarbigem Streifen): Missionschefs der diplomatischen, ständigen oder Spezialmissionen, leitende Beamte internationaler Organisationen und Familienmitglieder, die den gleichen Status besitzen / Carta di legittimazione „B" (a banda rosa): Chefs de mission diplomatique, permanente ou spéciale, membres de la haute direction des organisations internationales et membres de famille qui jouissent du même statut,*

— "C" kategorijas personas apliecība (ar rozā līniju): diplomātisko, pastāvīgo vai īpašo pārstāvniecību diplomātiskā dienesta darbinieki, starptautisko organizāciju augsta līmeņa ierēdņi un viņu ģimenes locekļi, kuriem ir tāds pats statuss / *Legitimationskarte „C" (mit rosafarbigem Streifen): Mitglieder des diplomatischen Personals der diplomatischen, ständigen oder Spezialmissionen, Beamte internationaler Organisationen und Familienmitglieder, die den gleichen Status besitzen / Carta di legittimazione „C" (a banda rosa): membri del personale diplomatico di missioni diplomatiche permanenti o speciali, funzionari di organizzazioni internazionali e familiari che beneficiano dello stesso statuto,*

— "D" kategorijas personas apliecība (ar zilu līniju): diplomātisko, pastāvīgo vai īpašo pārstāvniecību administratīvie un tehniskie darbinieki un viņu ģimenes locekļi, kuriem ir tāds pats statuss / *Legitimationskarte „D" (mit blauem Streifen): Mitglieder des Verwaltungs- und technischen Personals der diplomatischen, ständigen oder Spezialmissionen und Familienmitglieder, die den gleichen Status besitzen / Carta di legittimazione „D" (a banda blu): membri del personale amministrativo e tecnico di missioni diplomatiche permanenti o speciali e familiari che beneficiano dello stesso statuto,*

— "D" kategorijas personas apliecība (ar brūnu līniju): starptautisko organizāciju profesionālās kategorijas ierēdņi un viņu ģimenes locekļi, kuriem ir tāds pats statuss / *Legitimationskarte „D" (mit braunem Streifen): Beamte der Kategorie Berufspersonal internationaler Organisationen und Familienmitglieder, die den gleichen Status besitzen / Carta di legittimazione „D" (a banda marrone): funzionari appartenenti alla categoria del personale di carriera di organizzazioni internazionali e familiari che beneficiano dello stesso statuto,*

[1] Iepriekšējo publikāciju sarakstu skatīt šā atjauninājuma beigās.

— "E" kategorijas personas apliecība (ar violetu līniju): diplomātisko, pastāvīgo vai īpašo pārstāvniecību apkalpojošais personāls, starptautisko organizāciju vispārējā dienesta ierēdņi un viņu ģimenes locekļi, kuriem ir tāds pats statuss / *Legitimationskarte „E" (mit violettem Streifen): Mitglieder des Dienstpersonals der diplomatischen, ständigen oder Spezialmissionen, Beamte der allgemeinen Dienste internationaler Organisationen und Familienmitglieder, die den gleichen Status besitzen / Carta di legittimazione „E" (a banda viola): membri del personale di servizio di missioni diplomatiche permanenti e speciali, funzionari dei servizi generali di organizzazioni internazionali e familiari che beneficiano dello stesso statuto,*

— "F" kategorijas personas apliecība (ar dzeltenu līniju): diplomātisko, pastāvīgo vai īpašo pārstāvniecību darbinieku, kā arī karjeras konsulāro amatpersonu mājkalpotāji un starptautisko organizāciju ierēdņu mājkalpotāji / *Legitimationskarte „F" (mit gelbem Streifen): private Hausangestellte der Mitglieder der diplomatischen, ständigen oder Spezialmissionen und der von Berufs-Konsularbeamten geleiteten konsularischen Vertretungen sowie private Hausangestellte der Beamten internationaler Organisationen / Carta di legittimazione „F" (a banda gialla): personale domestico privato di membri di missioni diplomatiche permanenti o speciali e di rappresentanze consolari dirette da funzionari consolari di carriera nonché personale domestico privato di funzionari di organizzazioni internazionali,*

— "G" kategorijas personas apliecība (ar tirkīzzilu līniju): starptautisko organizāciju ierēdņi (ar īstermiņa darba līgumu) un viņu ģimenes locekļi, kuriem ir tāds pats statuss / *Legitimationskarte „G" (mit türkisem Streifen): Beamte internationaler Organisationen mit Arbeitsvertrag von begrenzter Dauer und Familienmitglieder, die den gleichen Status besitzen / Carta di legittimazione „G" (a banda turchese): funzionari di organizzazioni internazionali con contratto di lavoro a durata determinata e familiari che beneficiano dello stesso statuto,*

— "H" kategorijas personas apliecība (ar baltu līniju): diplomātisko, pastāvīgo vai īpašo pārstāvniecību, konsulāro pārstāvniecību un starptautisko organizāciju līdzstrādnieki, kuri nav šo organizāciju ierēdņi, kā arī personas bez privilēģijām un imunitātēm, kuras ir pilnvarotas pavadīt diplomātisko, pastāvīgo vai īpašo pārstāvniecību, konsulāro pārstāvniecību un starptautisko organizāciju darbiniekus / *Legitimationskarte "H" (mit weissem Streifen): Mitarbeiter ohne Beamtenstatus der diplomatischen, ständigen oder Spezialmissionen, der konsularischen Vertretungen und der internationalen Organisationen, sowie Personen ohne Privilegien und Immunitäten, die ermächtigt sind, Mitglieder der diplomatischen, ständigen oder Spezialmissionen, der konsularischen Vertretungen und der internationalen Organisationen zu begleiten. / Carta di legittimazione „H" (a banda bianca): collaboratori senza statuto di funzionari di missioni diplomatiche permanenti o speciali, di consolati e di organizzazioni internazionali così come persone senza privilegi e immunità autorizzate a accompagnare membri di missioni diplomatiche permanenti o speciali, di consolati e di organizzazioni internazionali,*

— "I" kategorijas personas apliecība (ar olīvzaļu līniju): Starptautiskās Sarkanā Krusta komitejas darbinieki, kuri nav Šveices pilsoņi, un viņu ģimenes locekļi, kuriem ir tāds pats statuss / *Legitimationskarte „I" (mit olivem Streifen): Personal nicht schweizerischer Staatsangehörigkeit des Internationalen Komitees vom Roten Kreuz und Familienmitglieder, die den gleichen Status besitzen / Carta di legittimazione „I" (a banda oliva): membri del personale non svizzero del Comitato internazionale della Croce Rossa e familiari che beneficiano dello stesso statuto,*

— "K" kategorijas personas apliecība (ar sarkanu līniju): karjeras konsulārās amatpersonas, kas ir konsulāro dienestu vadītāji, šo konsulāro dienestu ierēdņi un viņu ģimenes locekļi, kuriem ir tāds pats statuss / *Legitimationskarte „K" (mit rosafarbigem Streifen): Berufs-Postenchefs und Berufs-Konsularbeamte der konsularischen Vertretungen und Familienmitglieder, die den gleichen Status besitzen / Carta di legittimazione „K" (a banda rosa): capiposto consolari di carriera e funzionari consolari di carriera di rappresentanze consolari e familiari che beneficiano dello stesso statuto,*

— "K" kategorijas personas apliecība (ar zilu līniju): profesionālo konsulāro dienestu darbinieki un viņu ģimenes locekļi, kuriem ir tāds pats statuss / *Legitimationskarte „K" (mit blauem Streifen): Berufs-Konsularangestellte und Familienmitglieder, die den gleichen Status besitzen / Carta di legittimazione „K" (a banda blu): impiegati consolari di carriera e familiari che beneficiano dello stesso statuto,*

— "K" kategorijas personas apliecība (ar violetu līniju): profesionālo konsulāro pārstāvniecību apkalpojošais personāls un viņu ģimenes locekļi, kuriem ir tāds pats statuss / *Legitimationskarte „K" (mit violettem Streifen): Mitglieder des dienstlichen Hauspersonals von berufs-konsularischen Vertretungen und Familienmitglieder, die den gleichen Status besitzen / Carta di legittimazione „K" (a banda viola): membri del personale di servizio di rappresentanze consolari di carriera e familiari che beneficiano dello stesso statuto,*

— "K" kategorijas personas apliecība (ar baltu līniju): konsulāro pārstāvniecību goda vadītāji / *Legitimationskarte „K" (mit weissem Streifen): Honorar-Postenchefs von konsularischen Vertretungen / Carta di legittimazione „K" (a banda bianca): capiposto onorari di rappresentanze consolari,*

— "L" kategorijas personas apliecība (ar smilšu krāsas līniju): Sarkanā Krusta un Sarkanā Pusmēness starptautiskās federācijas darbinieki, kuri nav Šveices pilsoņi, un viņu ģimenes locekļi, kuriem ir tāds pats statuss / *Legitimationskarte „L" (mit sandfarbigem Streifen): Personal nicht schweizerischer Staatsangehörigkeit der Internationalen Gemeinschaft der Roten Kreuz- und Roten Halbmond-Gesellschaften und Familienmitglieder, die den gleichen Status besitzen / Carta di legittimazione „L" (a banda color sabbia): membri del personale non svizzero della Federazione internazionale delle Società della Croce Rossa e della Mezzaluna Rossa e familiari che beneficiano dello stesso statuto,*

— "P" kategorijas personas apliecība (ar zilu līniju): Eiropas kodolpētījumu organizācijas (*CERN*) darbinieki, kuri nav Šveices pilsoņi, un viņu ģimenes locekļi, kuriem ir tāds pats statuss / *Legitimationskarte «P» (mit blauem Streifen): wissenschaftliches Personal des CERN nicht schweizerischer Staatsangehörigkeit und Familienmitglieder, die den gleichen Status besitzen / Carta di Legittimazione «P» (à banda blu): personale scientifico non svizzero del CERN e familiari che beneficiano dello stesso statuto,*

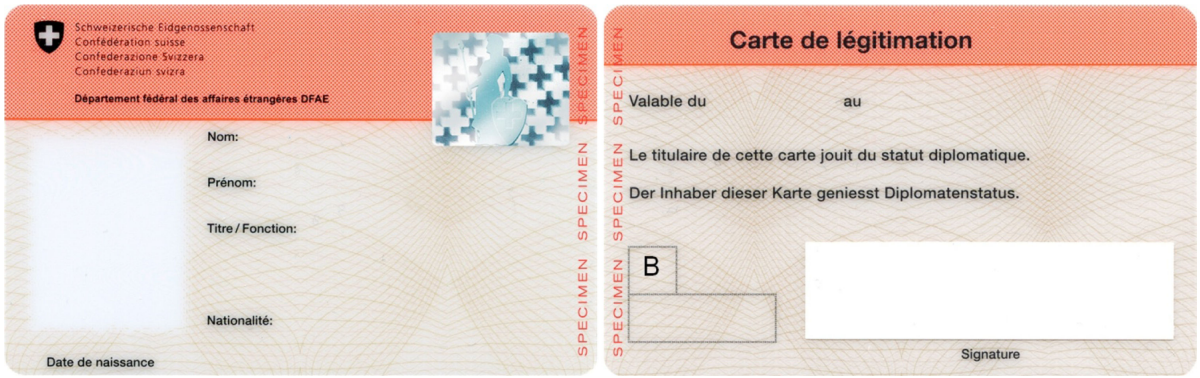
— "R" kategorijas personas apliecība (ar pelēko līniju): starptautisku kvazivalstisku organizāciju un citu starptautisku struktūru darbinieki, kas nav Šveices valstspiederīgie, un viņu ģimenes locekļi, kam ir tāds pats statuss / *Carte de légitimation «R» (à bande grise): membres du personnel non suisse des organisations internationales quasi gouvernementales ou des autres organismes internationaux et membres de famille qui jouissent du même statut / Legitimationskarte «R» (mit grauem Streifen): Personal nicht schweizerischer Staatsangehörigkeit von quasizwischenstaatlichen Organisation oder anderen internationalen Organen und Familienmitglieder, die den gleichen Status besitzen / Carta di Legittimazione «R» (a banda grigia): membri del personale non svizzero di organizzazioni internazionali quasi intergovernative o di altri organismi internazionali e familiari che beneficiano dello stesso statuto,*

— "S" kategorijas personas apliecība (ar zaļu līniju): diplomātisko, pastāvīgo un īpašo pārstāvniecību darbinieki, kuri ir Šveices pilsoņi, un starptautisko organizāciju ierēdņi, kuri ir Šveices pilsoņi / *Legitimationskarte „S" (mit grünem Streifen): Mitglieder des Personals schweizerischer Staatsangehörigkeit der diplomatischen, ständigen und der Spezialmissionen, Beamte schweizerischer Staatsangehörigkeit internationaler Organisationen / Carta di legittimazione „S" (a banda verde): membri del personale di nazionalità svizzera di missioni diplomatiche permanenti e speciali, funzionari di nazionalità svizzera di organizzazioni internazional.*

Federālā Ārlietu departamenta "B" tipa personas apliecība

— Vēstniecības un pastāvīgās pārstāvniecības: pārstāvniecības vadītājs

— Starptautiskās organizācijas: vadošais darbinieks



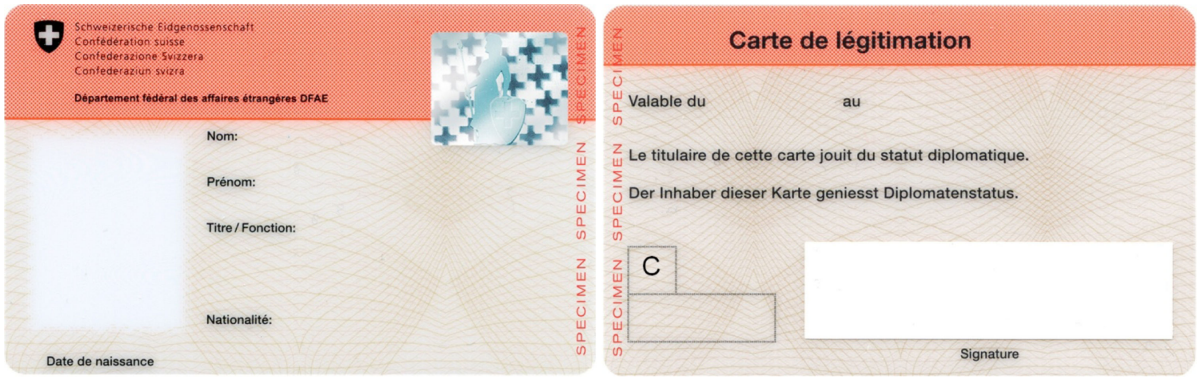
Šīs apliecības uzrādītājs bauda **diplomātisko statusu**

Der Inhaber dieser Karte geniesst ***Diplomatenstatus***

Federālā Ārlietu departamenta "C" tipa personas apliecība

— Vēstniecības un pastāvīgās pārstāvniecības: diplomātiskais personāls

— Starptautiskās organizācijas: augsta līmeņa ierēdnis



Šīs apliecības uzrādītājs bauda **diplomātisko statusu**

Der Inhaber dieser Karte geniesst ***Diplomatenstatus***

Federālā Ārlietu departamenta "D" tipa personas apliecība

— Vēstniecības un pastāvīgās pārstāvniecības: administratīvais un tehniskais darbinieks (AT)

Šīs apliecības uzrādītājs bauda **diplomātisko statusu, imunitāti pret civilo un administratīvo tiesvedību tikai attiecībā uz darbībām, kas veiktas, pildot savus pienākumus**

Der Inhaber dieser Karte geniesst ***Diplomatenstatus, Immunität von der Zivil- und Verwaltungsgerichtsbarkeit hat er jedoch nur für dienstliche Tätigkeiten***

— Starptautiskās organizācijas: profesionālās kategorijas ierēdnis

Šīs apliecības uzrādītājs bauda **imunitāti pret tiesvedību attiecībā uz darbībām, kas veiktas, pildot savus pienākumus**

Der Inhaber dieser Karte geniesst ***Immunität von der Gerichtsbarkeit für dienstliche Tätigkeiten***

Federālā Ārlietu departamenta "E" tipa personas apliecība

— Vēstniecības un pastāvīgās pārstāvniecības: apkalpojošais darbinieks un uz vietas darbā pieņemtais darbinieks

— Starptautiskās organizācijas: vispārējā dienesta ierēdņi

Šīs apliecības uzrādītājs bauda **imunitāti pret tiesvedību attiecībā uz darbībām, kas veiktas, pildot savus pienākumus**

Der Inhaber dieser Karte geniesst ***Immunität von der Gerichtsbarkeit für dienstliche Tätigkeiten***

Federālā Ārlietu departamenta "F" tipa personas apliecība

— Vēstniecības, pastāvīgās pārstāvniecības un starptautiskās organizācijas: darbinieka mājkalpotājs

Šīs apliecības uzrādītājam **nav imunitātes pret tiesvedību**

Der Inhaber dieser Karte hat ***keinen Anspruch auf Immunität von der Gerichtsbarkeit***

Federālā Ārlietu departamenta "G" tipa personas apliecība

— Starptautiskās organizācijas: pagaidu ierēdnis (ierēdnis ar "īstermiņa" darba līgumu) un norīkotais darbinieks

Šīs apliecības uzrādītājs bauda **imunitāti pret tiesvedību attiecībā uz darbībām, kas veiktas, pildot savus pienākumus**

Der Inhaber dieser Karte geniesst ***Immunität von der Gerichtsbarkeit für dienstliche Tätigkeiten***

Federālā Ārlietu departamenta "H" tipa personas apliecība

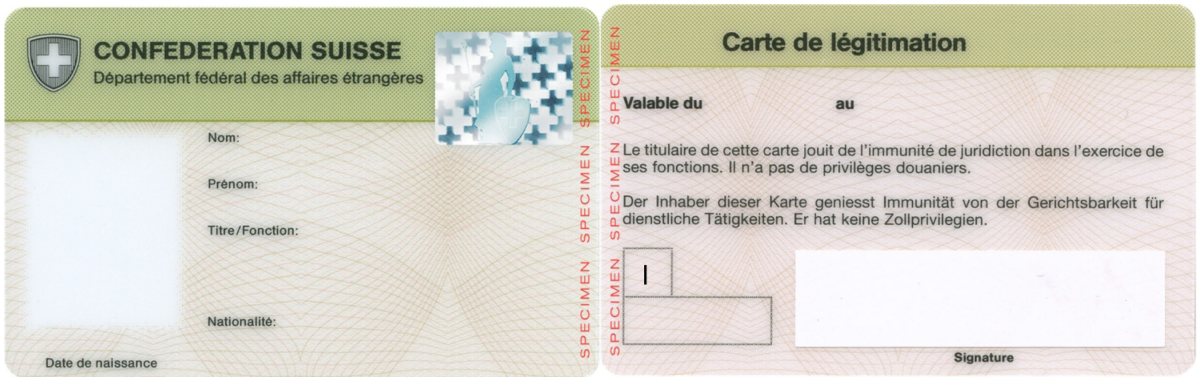
— Vēstniecības, konsulāti, pastāvīgās pārstāvniecības un starptautiskās organizācijas: persona bez privilēģijām un imunitātēm

Šīs apliecības uzrādītājam **nav imunitātes pret tiesvedību un nav piekļuves Šveices darba tirgum**

Der Inhaber dieser Karte hat ***keinen Anspruch auf Immunität von der Gerichtsbarkeit und keinen Zugang zum schweizerischen Arbeitsmarkt***

Federālā Ārlietu departamenta "I" tipa personas apliecība

— Starptautiskā Sarkanā Krusta komiteja (*CICR*): *CICR* līdzstrādnieks



Šīs apliecības uzrādītājs bauda **imunitāti pret tiesvedību attiecībā uz darbībām, kas veiktas, pildot savus pienākumus. Viņam nav muitas privilēģiju**

Der Inhaber dieser Karte geniesst ***Immunität von der Gerichtsbarkeit für dienstliche Tätigkeiten. Er hat keine Zollprivilegien***

Federālā Ārlietu departamenta "K" tipa personas apliecība

— Konsulāti – K personas apliecība ar sarkanu līniju: karjeras konsulārā amatpersona, kas ir konsulārā dienesta vadītājs, un konsulārā dienesta ierēdnis

Šīs apliecības uzrādītājs bauda **imunitāti pret tiesvedību attiecībā uz darbībām, kas veiktas, pildot savus pienākumus**

Der Inhaber dieser Karte geniesst ***Immunität von der Gerichtsbarkeit für dienstliche Tätigkeiten***

— Konsulāti – K personas apliecība ar zilu līniju: profesionālā konsulārā dienesta darbinieks

Šīs apliecības uzrādītājs bauda **imunitāti pret tiesvedību attiecībā uz darbībām, kas veiktas, pildot savus pienākumus**

Der Inhaber dieser Karte geniesst ***Immunität von der Gerichtsbarkeit für dienstliche Tätigkeiten***

— Konsulāti – K personas apliecība ar violetu līniju: dienesta darbinieks un uz vietas darbā pieņemtais darbinieks

Šīs apliecības uzrādītājam **nav imunitātes pret tiesvedību**

Der Inhaber dieser Karte hat ***keinen Anspruch auf Immunität von der Gerichtsbarkeit***

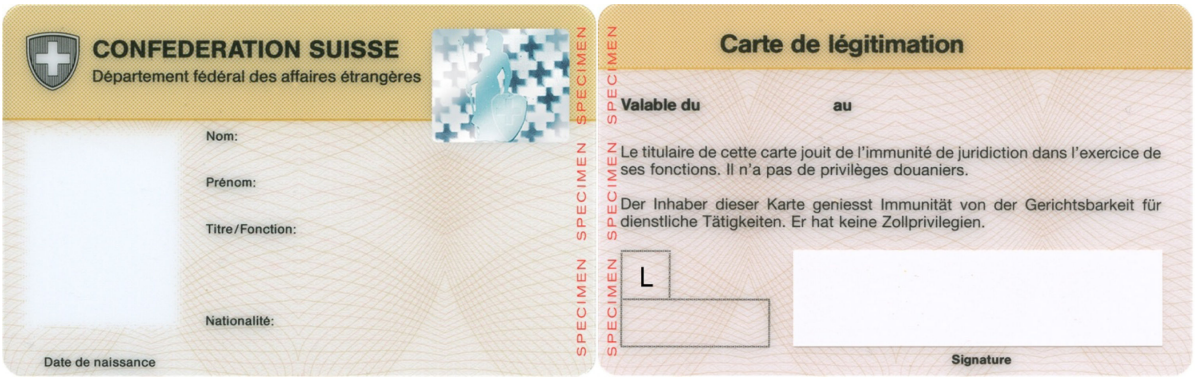
— Konsulāti – K personas apliecība ar baltu līniju: konsulārās pārstāvniecības goda vadītājs

Šīs apliecības uzrādītājs bauda **imunitāti pret tiesvedību tikai attiecībā uz konsulārajām funkcijām**

Der Inhaber dieser Karte hat ***Anspruch auf Immunität von der Gerichtsbarkeit lediglich für konsularische Tätigkeiten***

Federālā Ārlietu departamenta "L" tipa personas apliecība

— Sarkanā Krusta un Sarkanā Pusmēness starptautiskās federācija (*FISCR*): *FISCR* līdzstrādnieks



Šīs apliecības uzrādītājs bauda **imunitāti pret tiesvedību attiecībā uz darbībām, kas veiktas, pildot savus pienākumus. Viņam nav muitas privilēģiju**

Der Inhaber dieser Karte geniesst ***Immunität von der Gerichtsbarkeit für dienstliche Tätigkeiten. Er hat keine Zollprivilegien***

Federālā Ārlietu departamenta "P" tipa personas apliecība

— Eiropas kodolpētījumu organizācija (*CERN*): *CERN* zinātniskais darbinieks

Šīs apliecības uzrādītājs bauda **imunitāti pret tiesvedību attiecībā uz darbībām, kas veiktas, pildot savus pienākumus**

Der Inhaber dieser Karte geniesst ***Immunität von der Gerichtsbarkeit für dienstliche Tätigkeiten***

Federālā Ārlietu departamenta "R" tipa personas apliecība

— Starptautisku kvazivalstisku organizāciju un citu starptautisku struktūru darbinieki, kas nav Šveices valstspiederīgie, un viņu ģimenes locekļi, kam ir tāds pats statuss

Šīs apliecības uzrādītājam **nav imunitātes pret tiesvedību**

Der Inhaber dieser Karte hat ***keinen Anspruch auf Immunität von der Gerichtsbarkeit***

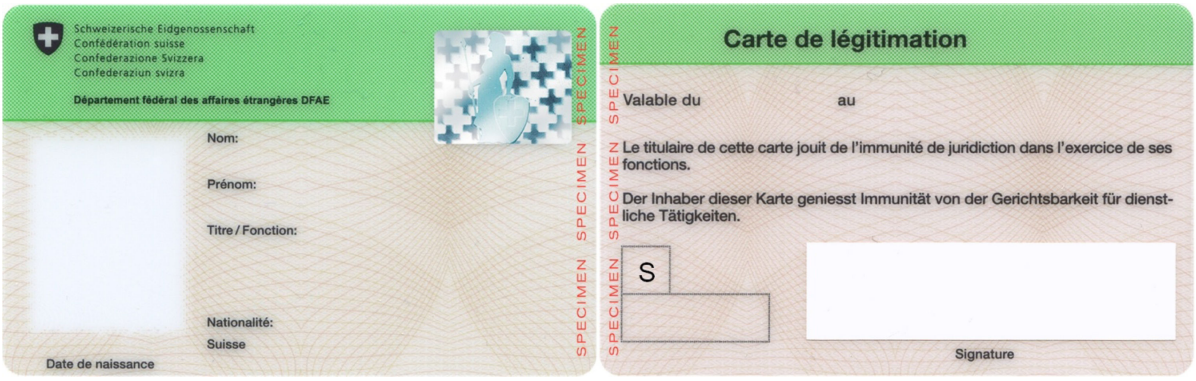
Federālā Ārlietu departamenta "S" tipa personas apliecība

Darbinieks, kuram ir Šveices pilsonība, neatkarīgi no ieņemamā amata ārvalstu pārstāvniecībā vai starptautiskajā organizācijā principā saņem "S" tipa personas apliecību. Darbinieki, kuri ir Šveices pilsoņi un kurus vēstniecības un konsulāti ir pieņēmuši darbā uz vietas, nesaņem apliecību. Starptautisku organizāciju pagaidu ierēdņi (ierēdņi ar īstermiņa darba līgumu), kuri ir Šveices pilsoņi, nesaņem apliecību.

— Vēstniecības un konsulāti: karjeras darbinieks, kuram ir Šveices pilsonība

— Pastāvīgās pārstāvniecības: darbinieks, kuram ir Šveices pilsonība

— Starptautiskās organizācijas: ierēdnis/līdzstrādnieks, kuram ir Šveices pilsonība



Šīs apliecības uzrādītājs bauda **imunitāti pret tiesvedību attiecībā uz darbībām, kas veiktas, pildot savus pienākumus**

Der Inhaber dieser Karte geniesst ***Immunität von der Gerichtsbarkeit für dienstliche Tätigkeiten***

Iepriekšējo publikāciju saraksts

OV C 247, 13.10.2006., 85. lpp.

OV C 153, 6.7.2007., 15. lpp.

OV C 64, 19.3.2009., 18. lpp.

OV C 239, 6.10.2009., 7. lpp.

OV C 214, 20.7.2012., 4. lpp.

OV C 238, 8.8.2012., 5. lpp.

OV C 255, 24.8.2012., 2. lpp.

OV C 242, 23.8.2013., 13. lpp.

OV C 304, 10.11.2010., 6. lpp.

OV C 273, 16.9.2011., 11. lpp.

OV C 357, 7.12.2011., 3. lpp.

OV C 88, 24.3.2012., 12. lpp.

OV C 120, 25.4.2012., 4. lpp.

OV C 182, 22.6.2012., 10. lpp.

OV C 38, 8.2.2014., 16. lpp.

OV C 133, 1.5.2014., 2. lpp.

OV C 360, 11.10.2014., 5. lpp.

OV C 397, 12.11.2014., 6. lpp.

OV C 77, 27.2.2016., 5. lpp.

OV C 174, 14.5.2016., 12. lpp.

INFORMĀCIJA ATTIECĪBĀ UZ EIROPAS EKONOMIKAS ZONU

EBTA UZRAUDZĪBAS IESTĀDE

Uzaicinājums iesniegt piezīmes, ievērojot 3. protokola I daļas 1. panta 2. punktu Nolīgumā starp EBTA valstīm par Uzraudzības iestādes un Tiesas izveidi, par jautājumiem saistībā ar valsts atbalstu

(2016/C 236/10)

Ievērojot Lēmumu Nr. 489/15/COL, kas autentiskā valodā pievienots šā kopsavilkuma beigās, EBTA Uzraudzības iestāde informēja Norvēģijas valsts iestādes par lēmumu attiecībā uz iepriekš minēto pasākumu sākt procedūru saskaņā ar 3. Protokola I daļas 1. panta 2. punktu Nolīgumā starp EBTA valstīm par Uzraudzības iestādes un Tiesas izveidi.

Ieinteresētās personas var nosūtīt piezīmes par minēto pasākumu viena mēneša laikā no paziņojuma publicēšanas dienas uz šo adresi:

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

Šīs piezīmes tiks nosūtītas Norvēģijas iestādēm. Piezīmes iesniedzošās ieinteresētās personas identitāte var tikt neizpausta, ja tiek saņemts rakstisks lūgums, kurā izklāstīti šāda lūguma iemesli.

KOPSAVILKUMS

Procedūra

Norvēģijas valsts iestādes, ievērojot 3. Protokola I daļas 1. panta 3. punktu, 2014. gada 13. marta vēstulē [1] informēja par 2014.–2020. gada shēmu, kas paredz reģionāli diferencētas sociālā nodrošinājuma iemaksas. Pamatojoties uz minēto paziņojumu un vēlāk iesniegto informāciju [2], Iestāde ar 2014. gada 18. jūnija Lēmumu Nr. 225/14/COL apstiprināja paziņoto atbalsta shēmu.

EBTA Tiesa ar 2015. gada 23. septembra spriedumu lietā E-23/14 *Kimek Offshore AS* pret *ESA* [3] daļēji atcēla Iestādes lēmumu.

Iestāde 2015. gada 15. oktobra vēstulē [4] pieprasīja papildu informāciju no Norvēģijas iestādēm. Norvēģijas iestādes 2015. gada 6. novembra vēstulē [5] iesniedza prasīto informāciju.

Pasākuma apraksts

Diferencēto sociālā nodrošinājuma iemaksu vispārējās shēmas mērķis ir samazināt vai novērst iedzīvotāju aizplūšanu no vismazāk apdzīvotajiem Norvēģijas reģioniem, veicinot nodarbinātību šajos reģionos. Piemērojot darbības atbalsta shēmu, nodarbinātības izmaksas tiek kompensētas, dažos ģeogrāfiskajos reģionos samazinot sociālā nodrošinājuma iemaksu likmes. Parasti atbalsta intensitāte atšķiras atkarībā no ģeogrāfiskā reģiona, kurā attiecīgā darījumdarbības vienība ir reģistrēta. Norvēģijas tiesību aktos noteikts, ka uzņēmumiem jāreģistrē apakšvienības attiecībā uz katru uzņēmējdarbības veidu [6]. Ja uzņēmums veic atšķirīga veida uzņēmējdarbības aktivitātes, ir jāreģistrē atsevišķas apakšvienības. Atsevišķas apakšvienības ir jāreģistrē arī tad, ja darbība tiek veikta dažādās ģeogrāfiskajās vietās.

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[1] Dokumenti Nr. 702438-702440, Nr. 702442 un Nr. 702443.
[2] Skatīt 2. punktu Lēmumā Nr. 225/14/COL, kas pieejams tīmekļa vietnē: http://www.eftasurv.int/media/state-aid/Consolidated_version_-_Decision_225_14_COL__NOR_Social_Security_contributions_2014-2020.pdf.
[3] Vēl nav izziņots.
[4] Dokuments Nr. 776348.
[5] Dokumenti Nr. 779603 un Nr. 779604.
[6] Likums par juridisko personu koordinācijas reģistru (LOV-1994-06-03-15).

Atkāpjoties no galvenā reģistrācijas noteikuma, shēma attiecas arī uz uzņēmumiem, kas ir reģistrēti ārpus atbalstāmā reģiona, ja darbinieki tiek algoti darbam atbilstīgajā reģionā un to darbinieki ir iesaistīti mobila rakstura darbībās atbilstīgajā reģionā (šajā lēmumā – "izbraukuma pakalpojumi"). Šis ir šajā konkrētajā lēmumā izskatāmais atbrīvojuma noteikums. Šīs shēmas valstiska līmeņa juridiskais pamats ir Valsts apdrošināšanas likuma 23-2. iedaļa ([1]). Atbrīvojuma juridiskais pamats valsts līmenī ir noteikts 1(4) iedaļā Norvēģijas parlamenta 2013. gada 5. decembra lēmumā Nr. 1482 par nodokļu likmju noteikšanu utt. saskaņā ar Valsts apdrošināšanas likumu.

Atbrīvojums piemērojams tikai tad, ja darbinieks atbalstāmajā reģionā pavadīja pusi vai vairāk no nostrādāto darba dienu skaita. Samazinātā likme turklāt ir piemērojama tikai attiecībā uz to darba daļu, kas ir veikta šajā reģionā.

Pasākuma novērtējums

Iestādei ir jānovērtē atbrīvojuma noteikuma saderība ar EEZ līguma darbību atbilstīgi 61. panta 3. punkta c) apakšpunktam saskaņā ar Iestādes Reģionālā atbalsta pamatnostādnēm 2014.–2020. gadam ("RAP") ([2]).

Reģionālais atbalsts var būt efektīvs nelabvēlīgā situācijā esošu teritoriju ekonomikas attīstības veicināšanā tikai tad, ja tas tiek piešķirts, lai šajos apgabalos veicinātu papildu ieguldījumus vai saimnieciskās darbības ([3]). Reģionālajam darbības atbalstam EEZ līguma 61. panta 3. punkta c) apakšpunktu var piemērot tikai tad, ja tas tiek piešķirts, lai novērstu konkrētas vai pastāvīgas problēmas, kas rodas uzņēmumiem mazāk attīstītos reģionos ([4]).

Nav nekādu šaubu par to, ka shēmas ģeogrāfiskās darbības joma attiecas tikai uz mazāk attīstītajiem reģioniem. Šis lēmums attiecināms tikai uz atbrīvojuma noteikumu. Jautājums ir par to, vai noteikums, kas paredz to, ka uzņēmumi, kuri ir reģistrēti ārpus mazāk attīstītajiem reģioniem, uz kuriem attiecas šī shēma, var gūt atbalsta priekšrocības saskaņā ar šo shēmu tādā gadījumā, ja tie veic savu saimniecisko darbību šādos reģionos, ir saderīgs ar valsts atbalsta noteikumiem. Citiem vārdiem sakot – vai ar atbrīvojuma noteikumu tiek risinātas konkrētas vai pastāvīgas problēmas, kas rodas uzņēmumiem mazāk attīstītos reģionos?

Norvēģijas iestādēm ir jāpierāda iedzīvotāju aizplūšanas risks gadījumā, ja netiks piemērots atbrīvojuma noteikums ([5]). Norvēģijas iestādes uzsvēra šā noteikuma piemērošanas priekšrocības vietējiem uzņēmumiem. Tie par zemākām izmaksām var izmantot specializētu darbaspēku, kas citādāk nebūtu iespējams. Atbrīvojuma noteikums turklāt ļauj palielināt konkurenci starp izbraukuma pakalpojumiem atbalstāmajos reģionos, kas savukārt dod labumu vietējiem uzņēmumiem (izņemot tos, kuri nodarbojas ar izbraukuma pakalpojumiem), jo mazākas izbraukuma pakalpojumu izmaksas uzņēmējdarbības veikšanu attiecīgajā reģionā padara pievilcīgāku un ienesīgāku. Atbalsta izmantošana saskaņā ar shēmu netieši palīdz samazināt strādājošo personu izmaksas, kas tādējādi ir līdzeklis iedzīvotāju aizplūšanas samazināšanai vai novēršanai. Doma ir, ka darba tirgus ir vissvarīgākais faktors, kas ietekmē cilvēku dzīvesvietas izvēli.

Norvēģijas iestādes turklāt norādīja, ka ārpus atbalstāmā reģiona reģistrētie uzņēmumi reizēm pieņem darbā darbiniekus darbam atbalstāmajos reģionos. Tādējādi uzņēmumi piedāvā darbu, kas, lai arī lielākoties ir pagaidu rakstura, tomēr veicina algas ienākumu pieaugumu atbalstāmajos reģionos. Šie pasākumi tādējādi veicina arī saimniecisko darbību. Norvēģijas iestādes norādīja arī uz to, ka darbinieki, kas uz laiku apmetas atbalstāmajā reģionā, iegādāsies vietējās preces un pakalpojumus un tādējādi dos ieguldījumu vietējā ekonomikā. Tas jo īpaši attiecināms uz darbiniekiem, kas ierodas darba vietā it īpaši uz īsu vai vidēju laika posmu, jo ir sagaidāms, ka viņi apmetīsies viesnīcās, ieturēsies restorānos utt. Norvēģijas iestādes ir aplēsušas, ka atbalsta apjoms, kas rodas saistībā ar atbrīvojuma noteikumu, ir divi procenti no kopējā atbalsta apjoma 2015. gadā, kas, kā tiek uzsvērts, ir aptuvenas aplēses. Divi procenti atbilst aptuveni EUR 19 miljoniem ([6]). Iestāde aicina Norvēģijas iestādes iesniegt precīzāku informāciju par šā noteikuma finansiālo ietekmi.

Neņemot vērā minētās vispārēja rakstura piezīmes, Norvēģijas iestādes nav pierādījušas, ka gadījumā, ja netiks piemērots atbrīvojuma noteikums, atbilstīgajos reģionos pastāv iedzīvotāju skaita sarukšanas risks. Iestāde uzskata, ka, lai atbilstu RAP prasībām, pasākuma ietekmei ir jābūt lielākai par niecīgu pagaidu nodarbinātības iespēju un izdevumu pieaugumu atbalstāmajā teritorijā. Tāpēc Iestāde aicina Norvēģijas iestādes iesniegt vairāk informācijas, kas pierādītu, ka gadījumā, ja netiks piemērots atbrīvojuma noteikums, atbalstāmajos reģionos pastāv iedzīvotāju skaita sarukšanas risks.

([1]) LOV-1997-02-28-19.
([2]) OV L 166, 5.6.2014., 44. lpp., un EEZ papildinājums Nr. 33, 5.6.2014., 1. lpp.
([3]) RAP 6. punkts.
([4]) RAP 16. punkts.
([5]) RAP 43. punkts.
([6]) Saskaņā ar paziņoto 2013. gada budžetu, sk. Iestādes Lēmuma Nr. 225/14/COL 49. punktu.

Attiecībā uz atbrīvojuma noteikuma ietekmi uz konkurenci un tirdzniecību Norvēģijas iestādes apgalvo, ka šāds noteikums rada vienlīdzīgus konkurences apstākļus visiem uzņēmumiem, kas darbojas nelabvēlīgā situācijā esošās teritorijās, jo tas ir vienādā mērā piemērojams visiem EEZ uzņēmumiem. Tādējādi tiek panākts, ka nepastāv nesamērīgi negatīva ietekme uz konkurenci. Iestāde uzskata, ka šeit var runāt par pozitīvu aspektu, ņemot vērā RAP 3. un 53. punktu. Tomēr uzņēmumi, kas ir reģistrēti atbalstāmajā apgabalā, būtībā var saskarties ar lielākām pastāvīgām problēmām nekā tie uzņēmumi, kuri tikai nosūta savus darbiniekus darbā uz laiku atbalstāmajā apgabalā. Norvēģijas iestādes apgalvo, ka ārpus atbalstāmā apgabala reģistrētie uzņēmumi salīdzinājumā ar vietējiem uzņēmumiem var nokļūt nelabvēlīgā stāvoklī konkurences jomā, tostarp, saistībā ar transporta un personāla izmitināšanas izdevumiem. Norvēģijas iestādes nav iesniegušas nekādus datus vai papildu pamatojumu, lai pamatotu šo pieņēmumu. Iestāde aicina Norvēģijas iestādes precizēt, kāpēc šis atbrīvojuma noteikums neatstāj negatīvu ietekmi uz konkurenci, un iesniegt papildu informāciju, lai pamatotu šo viedokli.

Norvēģijas iestādes uzsvēra, ka šā atbrīvojuma noteikuma stimulējošā ietekme ir acīmredzama. Atbalsta stimulējošo ietekmi nevar tikai vienkārši pieņemt. Kaut gan nav nepieciešams iesniegt konkrētus pierādījumus par to, ka, sniedzot atbalstu atbilstīgi shēmai, ikviens atbalsta saņēmējs ikvienā konkrētā gadījumā tiek stimulēts veikt darbību, kuru citādāk viņš neveiktu, stimulējošā ietekme būtu jāpamato vismaz ar atbilstošu ekonomikas teoriju. Ar atsaukšanos uz acīmredzamību vien nepietiek. Kaut gan atbrīvojuma noteikums attiecībā uz ārpus atbalstāmā apgabala reģistrētajiem uzņēmumiem samazina darbaspēka izmaksas izbraukuma pakalpojumiem atbalstāmajos apgabalos, Norvēģijas iestādes nav iesniegušas nekādus pierādījumus vai argumentus attiecībā uz to, ka, nesniedzot atbalstu, saimnieciskā darbība attiecīgajā reģionā būtu ievērojami mazāka saistībā ar problēmām, kuru risināšanai šis atbalsts ir paredzēts ([1]).

Norvēģijas iestādes paskaidroja, ka uzņēmumi, kas sniedz izbraukuma pakalpojumus, atsevišķos gadījumos var reģistrēt apakšvienības atbalstāmajā apgabalā. Turklāt tiem tas ir jādara, ja vismaz viens no darbiniekiem mātesuzņēmuma uzdevumā strādā atsevišķā apgabalā, un uzņēmumu tur ir iespējams apmeklēt.

Norvēģijas iestādes paskaidro, ka, izbraukuma pakalpojumiem atbalstāmajā apgabalā atbrīvojuma noteikumu nepiemērojot, rastos nepamatota atšķirīga attieksme atkarībā no tā, vai pakalpojumu sniedzošais uzņēmums ir vai nav izveidojis apakšvienību atbalstāmajā apgabalā.

Pirmkārt, Iestādei nav skaidrs, ko īsti nozīmē prasība "ja vismaz viens no darbiniekiem mātesuzņēmuma uzdevumā strādā atsevišķā apgabalā, un uzņēmumu tur ir iespējams apmeklēt". Iestāde tāpēc aicina Norvēģijas iestādes precizēt šo punktu.

Otrkārt, vienlīdzīgas attieksmes princips ir viens no EEZ tiesību aktu pamatprincipiem. Tomēr tas pats par sevi nevar pamatot atbrīvojuma noteikuma piemērošanu. Atbrīvojuma noteikumam kā tādam ir jābūt saderīgam ar EEZ līguma darbību.

Noslēgumā jānorāda, ka iepriekš aprakstītās attiecīgās informācijas neesamība Iestādei liek šaubīties, vai atbrīvojuma noteikums ir saderīgs ar EEZ līguma darbību.

EFTA SURVEILLANCE AUTHORITY DECISION

No 489/15/COL

of 9 December 2015

opening a formal investigation into the exemption rule for ambulant services under the scheme on differentiated social security contributions 2014-2020

(Norway)

The EFTA Surveillance Authority ('the Authority'),

HAVING REGARD to:

the Agreement on the European Economic Area ('the EEA Agreement'), in particular to Article 61,

Protocol 26 to the EEA Agreement,

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

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

([1]) RAP 71. punkts.

Whereas:

I. FACTS

1. Procedure

(1) The Norwegian authorities notified the regionally differentiated social security contributions scheme 2014-2020 pursuant to Article 1(3) of Part I of Protocol 3 by letter of 13 March 2014 ([1]). On the basis of that notification and information submitted thereafter ([2]), the Authority approved the notified aid scheme by its Decision No 225/14/COL of 18 June 2014.

(2) By its judgment of 23 September 2015 in case E-23/14 *Kimek Offshore AS* v *ESA* ([3]) the EFTA Court annulled, in part, the Authority's decision.

(3) By letter dated 15 October 2015 ([4]), the Authority requested information from the Norwegian authorities. By letter dated 6 November 2015 ([5]), the Norwegian authorities replied to the information request.

2. The scheme as such is not the subject of the formal investigation

(4) By its judgment the EFTA Court partly annulled the Authority's decision approving the aid scheme. The aid scheme as such is not subject to the renewed scrutiny carried out by the Authority in the present formal investigation. The subject of this formal investigation is merely the part of the scheme (an exemption rule for ambulant services) for which the Authority's approval was annulled.

3. The scheme

3.1 *Objective*

(5) The objective of the general scheme on differentiated social security contributions as such is to reduce or prevent depopulation in the least inhabited regions in Norway, by stimulating employment. The operating aid scheme offsets employment costs by reducing the social security contribution rates in certain geographical areas. As a main rule, the aid intensitites vary according to the geographical area in which the business unit is registered. The rules on registration are explained in greater detail below.

3.2 *National legal basis*

(6) The national legal basis for the scheme as such is Section 23-2 of the National Insurance Act ([6]). This provision sets out the employer's general obligation to pay social security contributions calculated on the basis of gross salary paid to the employee. According to paragraph 12 of that section, the Norwegian Parliament may adopt regionally differentiated rates, as well as specific provisions for undertakings within certain sectors. Thus, it is the National Insurance Act, in conjunction with the annual decisions of the Norwegian Parliament, that forms the national legal basis for the scheme.

(7) For further detail on the aid scheme as such, reference is made to the Authority's Decision No 225/14/COL.

3.3 *Rules on registration*

(8) As a main rule, aid eligibility depends on whether a business is registered in the eligible area. As noted above, the main rule of the scheme is that aid intensities vary according to the geographical area in which the business is registered.

(9) Norwegian law requires undertakings to register sub-units for each separate business activity performed ([7]). If an undertaking performs different kinds of business activities, separate sub-units must be registered. Moreover, separate units must be registered if the activities are performed in different geographical locations.

(10) According to the Norwegian authorities, the 'separate business activitiy' criterion is met when at least one employee carries out work for the parent unit in a separate area, and the undertaking may be visited there. Each sub-unit forms its own basis for the calculation of the differentiated social security contribution, depending on their registered location. Thus, an undertaking registered outside the area eligible for aid under the scheme will be eligible for aid if, and in so far as, its economic activities are performed within a sub-unit located within the eligible area.

([1]) Documents No 702438-702440, 702442 and 702443.
([2]) See paragraph 2 of Decision No 225/14/COL, available online: http://www.eftasurv.int/media/state-aid/Consolidated_version_-_Decision_225_14_COL__NOR_Social_Security_contributions_2014-2020.pdf
([3]) Not yet reported.
([4]) Document No 776348.
([5]) Documents No 779603 and 779604.
([6]) LOV-1997-02-28-19.
([7]) The Act on the Coordinating Register for Legal Entities (LOV-1994-06-03-15).

3.4 *Ambulant services – the measure under scrutiny*

(11) By way of exemption from the main rule on registration, the scheme also applies to undertakings registered outside the eligible area where they hire out workers to the eligible area and where their employees are engaged in mobile activities within the eligible area (for the purposes of this decision, this is referred to as 'ambulant services'). This is the exemption rule under scrutiny in the decision at hand. The national legal basis for that exemption is provided for by section 1(4) of the Norwegian Parliament's Decision No 1482 of 5 December 2013 on determination of the tax rates etc. under the National Insurance Act for 2014.

(12) The exemption applies only when the employee spends half or more of his working days in the eligible area. Further, the reduced rate is only applicable for the part of the work carried out there. As a principal rule, the tax registration period is one calendar month.

(13) This entails that if an employee of an Oslo-registered entity (Oslo is in Zone 1, an ineligible zone, where the rate therefore is the standard 14,1 %) completes 60 % of his work one calendar month in Vardø (which is in Zone 5 where the applicable rate is 0 %) and the rest in Oslo, the undertaking will be eligible for the zero-rate on the salary to be paid for the work carried out in Vardø, but not for the work carried out in Oslo.

4. **The judgment of the EFTA Court**

(14) The EFTA Court annuled the Authority's decision in so far as it closed the preliminary investigation as regards the aid measure in section 1(4) of the Norwegian Parliament's Decision No 1482 of 5 December 2013 on determination of the tax rates etc. under the National Insurance Act for 2014. Section 1(4) is drafted in such a way as to conflate, together with the exemption rule (which is the subject of the present decision), an anti-circumvention measure designed to prevent undertakings from claiming aid under the scheme by virtue of simply registering their business within an area with a lower rate of social security contributions, even if they then proceed to conduct ambulatory activities or hire out their employees to work in an area with a higher rate. The anti-circumvention measure is not subject to the present procedure ([1]).

5. **Comments by the Norwegian authorities**

(15) The Norwegian authorities argue that the exemption rule for ambulant services is compatible with the functioning of the EEA Agreement on the basis of its Article 61(3)(c) and that it is in line with the Authority's Guidelines on Regional State Aid for 2014-2020 (the RAG) ([2]).

(16) The Norwegian authorities have explained that the exemption rule accounts for about two percent of the total aid granted under the scheme for 2015. They stress that this calculation is based on uncertain estimates.

(17) The Norwegian authorities have explained that in Norway, access to employment is the most influential factor when it comes to peoples' choice of residence. The social security contribution is as a main rule calculated on the basis of the rate applicable in the zone in which the employer is considered to carry out business activity. This rule is based on the premise that only undertakings performing economic activity in the eligible area should receive aid, and only to the extent that they are performing business activities in that area. This is a fundamental premise for the aid scheme.

(18) Where a company is registered, is not, and should not be, decisive. There are many sectors that frequently provide ambulant services. As an example, it would be too burdensome to require all construction firms to register their activities locally wherever they were to carry out work in order to be eligible for reduced social security rates. Neither Article 61(3)(c) nor the RAG or the GBER ([3]) contain requirements on where regional aid beneficiaries need to be registered. A formalistic approach where the registered location of the beneficiary is decisive in all cases has no basis in Article 61(3)(c). To the contrary, it would be difficult to reconcile with the RAG which focusses on whether the aid promotes economic activity in disadvantaged areas and not whether beneficiaries are registered within the area covered by the scheme. The underlying realities, i.e. whether the undertaking carries out economic activity within the eligible area, should be decisive. Furthermore, undertakings performing ambulant services can to some extent register sub-units in the eligible area. In the absence of the exemption rule for ambulant serices in the eligible area, there would be an unjustified difference in treatment depending on whether the service providing undertaking had established a sub-unit in the eligible area.

([1]) See Order of the EFTA Court of 23.11.2015 in Case E-23/14 INT *Kimek Offshore AS* v *ESA* (not yet reported).
([2]) OJ L 166, 5.6.2014, p. 44 and EEA Supplement No 33, 5.6.2014, p. 1.
([3]) The General Block Exemption Regulation (GBER). Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1), incorporated into the EEA Agreement by EEA Joint Committee Decision No 152/2014 (OJ L 342, 27.11.2014, p. 63 and EEA Supplement No 71, 27.11.2014, p. 61) at point 1j of Annex XV to the EEA Agreement.

(19) The Norwegian authorities contend that the exemption rule contributes to an objective of common interest in a number of ways. They firstly note that undertakings in the eligible area can access, at a lower cost, specialised labour that would otherwise not be available. Secondly, the rule leads to increased competition between ambulant services in eligible areas. This is beneficial for local undertakings, other than those providing ambulant services, as lower costs for ambulant services make it more attractive and more profitable to run a business in the eligible area. Thirdly, employees with a temporal stay in the eligible area will buy local goods and services and thereby contribute to the local economy. This applies in particular to employees commuting to the location especially in the short or medium term as they are likely to stay in hotels, eat in restaurants etc. Fourthly, undertakings located in central areas may also hire personnel residing in the area where the ambulant services are performed. Even if the jobs are temporary in nature, they will contribute to increased wage income in the eligible regions, which also stimulates economic activity. Finally, undertakings registered outside the eligible zone may have a competitive disadvantage compared to local firms due to *i.a.* costs of transporting and lodging of personnel.

(20) In the view of the Norwegian authorities, it is evident that the exemption rule has an incentive effect as it reduces labour costs for ambulant services.

(21) Finally, the Norwegian authorities stress that the exemption rule creates a level playing field for all undertakings active in the disadvantages areas. The rule applies equally to any EEA-based undertaking. This ensures that undue adverse effects on competition are avoided.

II. **ASSESSMENT**

1. **The presence of state aid**

(22) 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.*'

(23) This implies that a measure constitutes state aid within the meaning of Article 61(1) of the EEA Agreement if the following conditions are cumulatively fulfilled: (i) there must be an intervention by the state or through state resources, (ii) that intervention must confer a selective economic advantage on the recipients, (iii) it must be liable to affect trade between EEA States and (iv) it must distort or threathen to distort competition.

(24) In Decision No 225/14/COL, the Authority concluded that the scheme on differentiated social security contributions 2014-2020 constitutes an aid scheme. The Authority refers to its reasoning in paragraphs 68-74 of that decision. The exemption rule for ambulant services is part of the provisions providing for that aid scheme. It increases the scope of the scheme in the sense that it widens the circle of potential beneficiaries to undertakings that are not registered in the eligible areas. As with the other aid granted under the scheme, extending the scheme to the undertakings registered outside of the eligible areas results in state resources conferring selective advantages on undertakings. These advantages are liable to affect trade and distort competition.

2. **Procedural requirements**

(25) 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*'.

(26) The Norwegian authorities implemented the exemption rule after the Authority approved it by Decision No 225/14/COL. With the annulment of the Authority's approval of the rule by the EFTA Court, the aid has become unlawful.

3. **Compatibility of the aid**

(27) The Authority must assess whether the exemption rule is compatible with the functioning of the EEA Agreement on the basis of its Article 61(3)(c) in line with the RAG.

(28) The exemption rule for ambulant services entitles undertakings that are not registered in the eligible area to benefit from reduced social security charges when and to the extent that they carry out economic activities in the registered area. Neither Article 61(3)(c) EEA nor the RAG (nor the regional aid rules in the GBER) formally require that regional aid beneficiaries are registered in the assisted areas.

(29) Regional aid can be effective in promoting the economic development of disadvantaged areas only if it is awarded to induce additional investment or economic activity in those areas ([1]). Regional operating aid can only fall under Article 61(3)(c) EEA if it is awarded to tackle specific or permanent handicaps faced by undertakings in disadvantaged regions ([2]).

([1]) Para. 6 of the RAG.
([2]) Para. 16 of the RAG.

(30) There is no question that the geographical scope of the scheme as such is restricted to disadvantaged regions. The scope of this decision is limited to the exemption rule. The question is whether that rule, which entails that undertakings registered outside the disadvantaged regions covered by the scheme can benefit from aid under the scheme to the extent that they carry out economic activities in the disadvantaged regions is compatible with the state aid rules. In other words, does the exemption rule tackle specific or permanenet handicaps faced by undertakings in the disadvantaged regions?

(31) It is for the Norwegian authorities to demonstrate the risk of depopulation in the absence of the exemption rule ([1]). The Norwegian authorities have underlined the benefits of the exemption rule for local undertakings. They can access, at a lower cost, specialised labour that would otherwise not be available. Moreover, the exemption rule leads to increased competition between ambulant services in the eligible areas, which again is beneficial for local undertakings (other than those providing ambulant services) since lower costs for ambulant services make it more attractive and more profitable to run a business in the eligible area. The use of aid under the scheme is an indirect tool in the sense that it is used to reduce the cost of employing workers as a measure to reduce or prevent depopulation. The idea is that the labour market is the most important factor influencing where people live.

(32) The Norwegian authorities have further argued that the firms registered outside the eligible area occasionally will hire workers in the eligible areas. Thereby the firms will provide jobs that, although of a more temporary nature, will nevertheless contribute to increased wage income in the eligible regions. This also stimulates economic activity. The Norwegian authorities furthermore argue that employees who temporarily stay in the eligible area will buy local goods and services and thereby contribute to the local economy. This applies in particular to employees commuting to the location especially on short or medium term as they are likely to stay in hotels, eat in restaurants, etc. The Norwegian authorities have estimated the amount of aid resulting from the exemption rule to be two percent of the total aid for 2015 which they stress is an uncertain estimate. Two percent amounts to approximately EUR 19 million ([2]). The Authority invites the Norwegian authorities to provide more precise information about the financial effect of the rule.

(33) Apart from the above remarks of a general nature, the Norwegian authorities have not demonstrated the risk of depopulation of the relevant area in the absence of the exemtion rule. It is the view of the Authority that a measure, in order to meet the requirements of the RAG, must have effects exceeding a marginal increase of temporary employment possibilities and spending in the eligible area. On this basis, the Authority invites the Norwegian authorities to provide more information to demonstrate the risk of depopulation in the absence of the exemption rule.

(34) In terms of effect on competition and trade of the exemption rule, the Norwegian authorities argue that the exemption rule creates a level playing field for all undertakings active in the disadvantaged areas as it applies equally to any EEA-based undertaking. The consequence is that it ensures that undue adverse effects on competition are avoided. It is the view of the Authority that this is a positive feature in light of paras. 3 and 53 of the RAG. However, the undertakings registered within the eligible area may, in general, face more permanent difficulties than the undertakings that merely send their employees to work in the area on a non-permanent basis. The Norwegian authorities argue that undertakings registered outside the eligible zone may have a competitive disadvantage compared to local firms due to *i.a.* costs of transporting and lodging of personnel. The Norwegian authotities have not presented any data or further reasoning to back up this assumption. The Authority invites the Norwegian authorities to further clarify why it is that the exemption rule does not have undue adverse effects on competition and to submit further information to back this up.

(35) The Norwegian authorities have stressed that it is evident that the exemption rule has an incentive effect. Incentive effect of an aid cannot merely be assumed. While it is not necessary to provide individual evidence that aid under a scheme provides each beneficiary with an incentive, on an individual basis, to carry out an activity it would not otherwise have carried out, the incentive effect must, at the least, be based on sound economic theory. It is not sufficient merely to refer to an alleged obviousness. While it is true that the exemption rule for companies registered outside the eligible areas reduces labour costs for ambulant services in the eligible areas, the Norwegian authorities have not provided evidence or arguments to the effect that it is likely that, in the absence of aid, the level of economic activity in the area would be significantly reduced due to the problems that the aid is intended to address ([3]).

(36) The Norwegian authorities have explained that undertakings performing ambulant services to some extent can register sub-units in the eligible area. Moreover, they are required to do so when at least one employee carries out work for the parent unit in a separate area, and the undertaking may be visited there.

(37) The Norwegian authorities argue that in the absence of the exemption rule for ambulant services in the eligible area, there would be an unjustified difference in treatment depending on whether the service providing undertaking had established a sub-unit in the eligible area.

([1]) Para. 43 of the RAG.
([2]) Based on the notified 2013 budget, see para. 49 of the Authority's Decision No 225/14/COL.
([3]) Para. 71 of the RAG.

(38) Firstly, it is not clear to the Authority what the requirement that 'at least one employee carries out work for the parent unit in a separate area, and the undertaking may be visited there' entails. The Authority therefore invites the Norwegian authorities to clarify this.

(39) Secondly, the the principle of equal treatment is a general principle of EEA law. However, this cannot in and of itself serve as a basis to justify the exemption rule. The exemption rule must itself be compatible with the functioning of the EEA Agreement.

(40) In conclusion, the absence of the relevant information, as described above, leads the Authority to have doubts about the compatibility of the exemption rule with the functioning of the EEA Agreement.

4. **Conclusion**

(41) As set out above, the Authority has doubts as to whether the exemption rule for ambulant services under the scheme on differentiated social security contributions 2014-2020 is compatible with the functioning of the EEA Agreement.

(42) Consequently, and in accordance Article 4(4) of Part II of Protocol 3, the Authority is obliged to open the formal investigation procedure provided for in Article 1(2) of Part I of Protocol 3. The decision to open a formal investigation procedure is without prejudice to the final decision of the Authority, which may conclude that the measure is compatible with the functioning of the EEA Agreement.

(43) The Authority, acting under the procedure laid down in Article 1(2) of Part I of Protocol 3, invites the Norwegian authorities to submit, by 10 January 2016 their comments and to provide all documents, information and data needed for the assessment of the compatibility of the measure in light of the state aid rules.

(44) The Authority reminds the Norwegian authorities that, according to Article 14 of Part II of Protocol 3, any incompatible aid unlawfully granted to the beneficiaries will have to be recovered, unless this recovery would be contrary to a general principle of EEA law, such as the protection of legitimate expectations.

HAS ADOPTED THIS DECISION:

Article 1

The formal investigation procedure provided for in Article 1(2) of Part I of Protocol 3 is opened into the exemption rule for ambulant services under the scheme on differentiated social security contributions 2014-2020.

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 by 10 January 2016.

Article 3

The Norwegian authorities are requested to provide by 10 January 2016, 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 language version of this decision is authentic.

Done in Brussels, on 9 December 2015

For the EFTA Surveillance Authority

Sven Erik SVEDMAN
President

Helga JÓNSDÓTTIR
College Member

Uzaicinājums iesniegt piezīmes, ievērojot 3. protokola I daļas 1. panta 2. punktu Nolīgumā starp EBTA valstīm par Uzraudzības iestādes un Tiesas izveidi, par valsts atbalsta jautājumiem saistībā ar iespējamo atbalstu uzņēmumam *Hurtigruten ASA* saskaņā ar Piekrastes nolīgumu par *Hurtigruten* jūras pārvadājumu pakalpojumiem 2012.–2019. gadā

(2016/C 236/11)

Ar 2015. gada 9. decembra Lēmumu Nr. 490/15/COL, kas autentiskajā valodā pievienots šim kopsavilkumam, EBTA Uzraudzības iestāde sāka procedūru saskaņā ar 3. protokola I daļas 1. panta 2. punktu Nolīgumā starp EBTA valstīm par Uzraudzības iestādes un Tiesas izveidi. Norvēģijas iestādes tika informētas, nosūtot tām lēmuma kopiju.

Ar šo EBTA Uzraudzības iestāde aicina EBTA valstis, ES dalībvalstis un ieinteresētās personas viena mēneša laikā no šā paziņojuma publicēšanas dienas iesniegt piezīmes par minēto pasākumu, nosūtot tās uz šādu adresi:

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

Piezīmes tiks paziņotas Norvēģijas iestādēm. Ieinteresētā persona, kas iesniedz piezīmes, var rakstveidā pieprasīt, lai tās identitāte netiktu atklāta, norādot šādas prasības iemeslus.

KOPSAVILKUMS

Pamatinformācija

Hurtigruten ASA (*Hurtigruten*) sniedz pārvadājumu pakalpojumus, proti, pasažieru un kravu kombinētos pārvadājumus gar Norvēģijas piekrasti no Bergenas (*Bergen*) līdz Hjirkenēsei (*Kirkenes*).

Saskaņā ar konkursa procedūru 2011. gada 13. aprīlī ar *Hurtigruten* tika parakstīts nolīgums par pakalpojumu iepirkumu piekrastes maršrutā Bergena–Hjirkenēse laikposmam no 2012. gada 1. janvāra līdz 2019. gada 31. decembrim (*Hurtigruten* nolīgums). Saskaņā ar šo nolīgumu *Hurtigruten* visu gadu veic ikdienas braucienus, apkalpojot 32 ostas, kas atrodas starp Bergeni un Hjirkenēsi. Maršrutos Trumse–Hjirkenēse un Hjirkenēse–Trumse tiek pārvadātas arī kravas. Pakalpojumi tiek sniegti atbilstoši konkrētām ietilpības un kuģiem piemērojamām prasībām, kas paredzētas līgumā. Piekrastes maršrutā izmantoto kuģu minimālā pasažierietilpība ir 320 pasažieri, kajītēs ir guļvietas 120 pasažieriem un kravas nodalījumā ir vieta 150 eiropaletēm ar parasto kravas augstumu. Minētie kuģi arī atbilst juridiskajām un tehniskajām prasībām, kas norādītas konkursa specifikāciju 4.4. iedaļā.

Par pakalpojumiem, uz kuriem attiecas *Hurtigruten* nolīgums, Norvēģijas iestādes maksā kompensāciju 5 120 miljonu Norvēģijas kronu apmērā par nolīguma ilgumu, proti, astoņiem gadiem.

Piešķirtās kompensācijas valsts atbalsta novērtējums

Vienīgais minētā valsts atbalsta jēdziena kritērijs ir tas, vai līgums ir nodrošinājis uzņēmumam *Hurtigruten* selektīvu un nepamatotu ekonomisku priekšrocību.

Selektīva ekonomiska priekšrocība par labu Hurtigruten

Uzraudzības iestāde izvērtēja četrus *Altmark* sprieduma [1] nosacījumus un konstatēja, ka šajā posmā neviens no tiem nešķiet izpildīts un tādējādi uzņēmumam *Hurtigruten* ir nodrošināta selektīva priekšrocība EEZ līguma 61. panta 1. punkta nozīmē.

Attiecībā uz pirmo nosacījumu, proti, sabiedrisko pakalpojumu saistību skaidru definīciju, Uzraudzības iestādei ir šaubas, vai Norvēģija var noteikt *Hurtigruten* nolīguma 4.2. iedaļā paredzēto rezerves jaudas prasību par vispārējas

[1] Spriedums lietā *Altmark Trans GmbH un Regierungspräsidium Magdeburg pret Nahverkehrsgesellschaft Altmark GmbH (Altmark)*, C-280/00, EU:C:2003:415, 87.–93. punkts.

tautsaimnieciskas nozīmes pakalpojumu (VTNP), un aicina Norvēģijas iestādes sniegt objektīvu pamatojumu vajadzībai pēc sabiedrisko pakalpojumu saistībām (SPS), ņemot vērā pasažieru komercpārvadājumu sezonālās svārstības.

Attiecībā uz otro nosacījumu un faktu, ka kompensācijas aprēķināšanas parametriem ir jābūt iepriekš objektīvi un pārredzami noteiktiem, Uzraudzības iestādei šajā posmā ir šaubas, vai rezerves jaudas prasība ir saistīta ar SPS ietvaros pārvadājamo pasažieru faktisko skaitu. Piemēram, nav objektīvas un pārredzamas metodikas, lai iepriekš aprēķinātu izmaksas par pasažieri/kilometru. *Hurtigruten* ir izveidojis atsevišķu budžetu, kurā iekļautas visas izmaksas un ieņēmumi saistībā ar SPS maršrutiem. Tomēr šīs atsevišķās grāmatvedības mērķis nav iepriekš noteikt parametrus, uz kuru pamata aprēķina kompensāciju, kas ir tieši saistīta ar faktiskajiem *Hurtigruten* zaudējumiem un izmaksām (izmaksām par jaudu un pasažieriem).

Attiecībā uz trešo nosacījumu Uzraudzības iestāde pauž šaubas, vai Norvēģijas iestādes ir nodrošinājušas to, ka piešķirtā kompensācija nepārsniedz summu, kas ir vajadzīga, lai pilnībā vai daļēji segtu izmaksas, kuras radušās SPS izpildes rezultātā, ņemot vērā attiecīgos ieņēmumus un saprātīgu peļņu par minēto saistību izpildi.

Šajā posmā Uzraudzības iestāde nevar izslēgt iespēju, ka *Hurtigruten* ir saņēmis pārmērīgu kompensāciju par sabiedrisko pakalpojumu sniegšanu. Lai izdarītu šo sākotnējo secinājumu, Uzraudzības iestāde izvērtēja šādus aspektus:

i) *Hurtigruten* nerezervē sabiedrisko pakalpojumu ietvaros pārvadāmajiem pasažieriem paredzēto jaudu, bet pārdod to kruīzu pasažieriem, vienlaikus saglabājot tādā pašā līmenī kompensāciju par sabiedriskajiem pakalpojumiem;

ii) kompensācija par sabiedrisko pakalpojumu sniegšanu ir būtiski palielinājusies salīdzinājumā ar iepriekšējo līguma darbības laiku;

iii) *Hurtigruten* turpina saņemt kompensāciju par pakalpojumiem, kas nav sniegti; un

iv) *Hurtigruten* cenšas panākt vēl zemāku ostas maksu, vienlaikus saglabājot tādā pašā līmenī kompensāciju par sabiedriskajiem pakalpojumiem.

Visbeidzot, attiecībā uz ceturto nosacījumu, saskaņā ar kuru konkursa procedūra vai salīdzinošā novērtēšana ir jāuzsāk ar efektīvi strādājošu operatoru, Uzraudzības iestādei, atsaucoties uz organizēto konkursa procedūru, kurā tika iesniegts tikai viens, proti, *Hurtigruten* piedāvājums, šajā posmā ir šaubas, vai šo konkursa procedūru var uzskatīt par pietiekamu, lai nodrošinātu "viszemākās izmaksas sabiedrībai". Tas jo īpaši ir tādēļ, ka *Hurtigruten* bija būtiskas konkurētspējas priekšrocības, kas uzlaboja tā pozīciju konkursa procedūrā, ņemot vērā to, ka šim uzņēmumam jau piederēja konkursa specifikāciju prasībām pielāgoti kuģi.

Turklāt saskaņā ar konkursa specifikācijām tiesības izpildīt SPS tika izsludinātas kā trīs alternatīvas. Tas norādītu uz to, ka eksistē turpmāka informācija un/vai svēruma kritēriji attiecībā uz šīm alternatīvām. Ņemot vērā to, ka šāda informācija nebija iekļauta konkursa dokumentos, Uzraudzības iestādei ir šaubas, vai organizētais konkurss ir radījis stimulu potenciāliem pretendentiem (izņemot *Hurtigruten*), kas būtu vēlējušies iesniegt piedāvājumus atbilstīgi trīs dažādo alternatīvu prasībām un piedāvāt pakalpojumus saskaņā ar citu, nevis faktiski izvēlēto alternatīvu.

Norvēģijas iestādes nav iesniegušas nekādu informāciju par salīdzinošo novērtēšanu ar efektīvi strādājošu operatoru.

Saderības novērtējums

Kompensācijas, kas piešķirta par sabiedrisko pakalpojumu sniegšanu jūras transporta jomā, saderību novērtē uz EEZ līguma 59. panta 2. punkta pamata apvienojumā ar Uzraudzības iestādes nostādnēm par valsts atbalstu, kuru piešķir kā kompensāciju par sabiedrisko pakalpojumu sniegšanu ("nostādnes") ([2]).

([2]) Pieejamas šādā tīmekļa vietnē: http://www.eftasurv.int/media/state-aid-guidelines/Part-VI---Framework-for-state-aid-in-the-form-of-public-service-compensation.pdf.

Šajās nostādnēs izklāstītos principus piemēro kompensācijai par sabiedriskajiem pakalpojumiem vienīgi tad, ja šī kompensācija ir valsts atbalsts, uz ko neattiecas Komisijas Lēmums 2012/21/ES par Līguma par Eiropas Savienības darbību 106. panta 2. punkta piemērošanu valsts atbalstam attiecībā uz kompensāciju par sabiedriskajiem pakalpojumiem dažiem uzņēmumiem, kuriem uzticēts sniegt pakalpojumus ar vispārēju tautsaimniecisku nozīmi (VTNP lēmums) ([3]).

Uzraudzības iestāde no Norvēģijas iestādēm nav saņēmusi nekādu informāciju par apsvērumiem, kas attiecas uz saderību, un tai šajā posmā ir šaubas, vai *Hurtigruten* nolīgums ir saderīgs ar EEZ līguma darbību.

Secinājums

Ņemot vērā iepriekš minētos apsvērumus, Uzraudzības iestāde nolēma sākt oficiālo izmeklēšanas procedūru saskaņā ar 3. protokola I daļas 1. panta 2. punktu Nolīgumā starp EBTA valstīm par Uzraudzības iestādes un Tiesas izveidi. Ieinteresētās personas tiek aicinātas iesniegt piezīmes viena mēneša laikā no šā paziņojuma publicēšanas dienas *Eiropas Savienības Oficiālajā Vēstnesī*.

EFTA SURVEILLANCE AUTHORITY DECISION

No 490/15/COL

of 9 December 2015

opening the formal investigation procedure on the Coastal Agreement for Hurtigruten Maritime Services 2012-2019

(Norway)

[NON-CONFIDENTIAL VERSION]

The EFTA Surveillance Authority ('the Authority'),

HAVING REGARD to:

the Agreement on the European Economic Area ('the EEA Agreement'), in particular to Articles 59(2) and 61,

Protocol 26 to the EEA Agreement,

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

Protocol 3 to the Surveillance and Court Agreement ('Protocol 3'), in particular to Article 1 of Part I and Articles 4(4), 6 and 13 of Part II,

Whereas:

I. **FACTS**

1. **Procedure**

(1) On 28 April 2014 the Authority received by e-mail a complaint about alleged incompatible aid to Hurtigruten ASA ('Hurtigruten') under the Coastal Agreement for the Bergen – Kirkenes route ('Hurtigruten Agreement' or 'HA') for the period 1 January 2012 to 31 December 2019.

(2) A second complaint referring to the same Coastal Agreement was received on 9 July 2014. The two complaints are independent, but there are certain overlapping issues. Given that both complaints refer to the same HA, the present decision will treat them jointly and refer to them as 'the complaints' (reference will also be made to 'the complainants') throughout the text.

(3) By letter dated 13 June 2014 (supplemented by a subsequent letter of 10 July 2014), the Authority requested information from the Norwegian authorities. By letter dated 22 September 2014, the Norwegian authorities replied to the information request. An additional request for information was sent to the Norwegian authorities on 21 November 2014, to which the Norwegian authorities replied by letter dated 16 January 2015.

([3]) OV L 7, 11.1.2012., 3. lpp., iekļauts EEZ līguma XV pielikuma 1.h punktā.

2. **Background – the Hurtigruten Agreement**

(4) Hurtigruten operates transport services consisting of the combined transport of persons and goods along the Norwegian coast from Bergen to Kirkenes, as illustrated in the diagram below:

Diagram 1 – The Bergen – Kirkenes coastal route

(5) The operation of the service for parts of the period 1 January 2005 to 31 December 2012 was the subject of the Authority's Decision No 205/11/COL. ([4]) In that Decision the Authority concluded that the measures involved entailed state aid that was incompatible with the functioning of the EEA Agreement in so far as they constituted a form of overcompensation for a public service obligation, and ordered the recovery of the aid.

(6) The operation of the service for the period 1 January 2012 to 31 December 2019 was the subject of a tender procedure initiated on 30 June 2010, when the tender specifications were published on Doffin (online database for public procurement). ([5])

(7) Following this tender procedure, and on the basis of a bid submitted on 8 November 2010, a contract for the procurement of services for the Bergen – Kirkenes coastal route for the period 1 January 2012 to 31 December 2019 was signed with Hurtigruten on 13 April 2011. Under this contract, Hurtigruten shall perform daily sailings throughout the year with calls at 32 intermediate defined ports between Bergen and Kirkenes. For the Tromsø – Kirkenes and Kirkenes – Tromsø routes, freight transport shall also be provided. The services shall be operated in line with certain capacity and vessel requirements, as stipulated in the contract. Vessels used on the coastal route shall as a minimum have a passenger capacity for 320 passengers, berth capacity in cabins for 120 passengers and freight capacity for 150 euro pallets in a cargo hold with a normal load height. They shall also meet legal and technical requirements as indicated in section 4.4 of the tender specifications.

(8) The maritime services for the Bergen – Kirkenes route are based on maximum fares as regards port-to-port passengers (i.e. public service passengers), which must be approved by the Norwegian authorities. According to the HA, '"[p]ort-to-port passengers" are passengers who purchase tickets for travelling on a chosen route in accordance with the normal tariff, with any supplement for cabins and/or meals at their option. Prices for supplementary services must correspond to published prices for the selected standard of cabin and meal. The overall price must in such cases equal the sum of the ticket price and individual prices of the selected supplementary services.' An approved fare is taken to mean the normal fares tariff that applied on this route on 1 October 2004, adjusted in line with the Consumer Price Index. Any subsequent changes to the normal tariff must be approved by the Norwegian authorities.

([4]) OJ L 175, 5.7.2012, p. 19 and EEA Supplement No 37, 5.7.2012, p. 1. See also Joined Cases E-10/11 and E-11/11 *Hurtigruten* [2012] EFTA Ct. Rep. 758, upholding the Authority's Decision.

([5]) See www.doffin.no.

(9) For other passengers, Hurtigruten is free to set its prices. According to the HA, '"[o]ther passenger" are those who are not "port-to-port passengers". In other words, they are passengers who purchase travel products for specific routes, defined by the supplier, and which include at least one overnight cabin stay and at least one meal on board, where the supplier has published a combined price for the items included and which cannot be broken down into the individual published prices for the same items, including that the passengers will not be entitled to defined discounts on the travel component of the product. Other passengers also include those purchasing a travel product, defined by the supplier, with at least the above-mentioned supplementary services at a combined price, specified per day, but where the passengers themselves select the route where these conditions apply.' The same applies to cabin and meal prices, as well as to freight transport.

(10) For the services covered by the HA, the Norwegian authorities pay a total compensation of NOK 5120 million for the eight years' duration of the agreement, expressed in 2011 prices, in accordance with Statistics Norway's cost index for domestic sea transport. ([6]) The compensation allocation for each individual year is as follows:

Table 1 – Annual Compensation under the HA

2012	NOK 700 million
2013	NOK 683 million
2014	NOK 666 million
2015	NOK 649 million
2016	NOK 631 million
2017	NOK 614 million
2018	NOK 597 million
2019	NOK 580 million

(11) According to the HA, Hurtigruten is obliged to keep separate accounts for the activities on the Bergen – Kirkenes route and other activities and routes outside the scope of the HA. ([7]) In addition, Hurtigruten is obliged to keep separate accounts for the public service obligation routes ('PSO routes') of the Bergen – Kirkenes main coastal route and the commercial part of the same route.

3. **The complaints** ([8])

(12) Both complainants have requested confidential treatment.

(13) The complainants' argument that Hurtigruten receives state aid in the form of overcompensation, violating thus Articles 61 and 59 of the EEA Agreement, is centred around the following allegations:

1. The compensation for providing the PSO routes has increased substantially as compared to the previous contract period.

2. Hurtigruten continues to receive compensation for services that are not rendered:

   a. Hurtigruten has cancelled all sailings to and from the port of Mehamn from 6 January 2014 onwards without any objective justification or professional verification, after having itself partially demolished the terminal quay in April 2012, which Hurtigruten was actually using to dock for over 20 months. At the same time, the corresponding compensation granted by the Norwegian authorities has not been reduced, enabling Hurtigruten to receive monthly cost savings amounting to NOK 314 500. As a result, both the second and third Altmark conditions would not be fulfilled. The second condition is not fulfilled because the Norwegian authorities have not established a framework or policy for objectively and professionally evaluating loss of service after technical or operational claims by the company, and have not engaged any agency to verify the contested claims. The third condition would not be fulfilled, according to the complainants, because Hurtigruten is paid full compensation for PSO routes where it enjoys a substantial cost reduction as a result of the interruption of the services.

   b. Numerous complaints from several ports and regional authorities regarding frequent and arbitrary Hurtigruten cancellations have been dismissed by the Norwegian authorities and have not resulted in any reduction of the compensation. According to the complainants, certain ports are especially plagued by cancellations due to low passenger numbers and low profitability, especially during the winter season.

([6]) If Statistics Norway's cost index is unavailable, Statistics Norway's Consumer Price Index would be used.

([7]) As mentioned in the Authority's Decision No 205/11/COL *'[i]n addition to the service covered by the Hurtigruten Agreement, Hurtigruten is a commercial operator and offers round trips, excursions, and catering on the route Bergen – Kirkenes. Moreover, in connection with this route, Hurtigruten also provides transport services in the Geiranger fjord, outside the scope of the Hurtigruten Agreement. Furthermore, Hurtigruten operates a number of different cruises in different European states, Russia, Antarctica, Spitsbergen and Greenland'*, section 1.2.

([8]) Doc Nos 748323 and 715314.

The complainants particularly question the *force majeure* definition of section 8 of the HA referring to 'extreme weather conditions' without the use of objective criteria. ([9]) They also refer to such conditions as not constituting *force majeure* in line with section 8 of the HA, which particularly states that '[o]bstacles that the contracting party should have considered upon entering into the agreement, or could reasonably be expected to avoid or circumvent, shall not be considered to constitute *force majeure*'. At the same time, the complainants question Hurtigruten's discretion to abuse the absolute sovereignty of the master of the ship, when justifying cancellations that are not due to scheduled maintenance or technical reasons pursuant to section 4-1(3) of the HA.

In conclusion, the complainants submit that the cancellations that do not result in any reduction of the compensation have an adverse effect on the performance of the PSO routes and do not fulfil the second and third *Altmark* conditions.

3. Hurtigruten has shown reluctance to pay port fees, rent and service charges. It stopped paying from January 2014 until May 2014. Furthermore, it attempts to secure special price agreements and seeks repayments of such costs from all relevant ports going back to 2011, while maintaining the public service compensation at the same level.

4. Hurtigruten does not reserve capacity for public service passengers, but rather sells the berth capacity to cruise passengers. Hence, Hurtigruten is paid twice for the same capacity, which provides it with an advantage of NOK 50 to 100 million per year.

4. **Comments by the Norwegian authorities** ([10])

(14) On the allegation that the compensation for the PSO routes under the HA is much higher than under the former agreement of 2005-2012, the Norwegian authorities submit that this reflects the actual costs of running the service with the conditions set in the tender specifications. In this regard, it is also submitted that Hurtigruten suffered considerable losses in the period 2005-2010 while running its PSO routes.

(15) Nevertheless, as there was only one bid after the call for tenders, the Norwegian authorities made use of their right to initiate subsequent negotiations, resulting in the reduction of the compensation by NOK [400 - 1200] million in relation to the initial offer, i.e. from NOK [6320 – 5520] million to NOK 5120 million.

(16) Concerning the allegations regarding Hurtigruten cancellations not resulting in any reduction of the compensation, the Norwegian authorities submit that the HA indeed foresees, in section 3, cancellations within the agreed quotas for technical reasons or cultural events, or due to extraordinary weather conditions in line with the *force majeure* clause of section 8, which do not lead to reductions in the compensation nor to liquidated damages. ([11]) It is submitted that the benefit gained by Hurtigruten in 2012 and 2013 by not having the compensation reduced in case of extreme weather conditions is significantly lower than a proportional part of the reduction in compensation of NOK [400 – 1200] million so far (i.e. the benefit was NOK [14 – 19] million in 2012 and around NOK [16 – 22] million in 2013).

(17) As regards in particular the cancellations due to extreme weather conditions, the Norwegian authorities note that the guiding principle is the safety of the passengers, the crew and the ship, irrespective of whether such conditions are expected. Moreover, also in accordance with section 135 of the Norwegian Maritime Act of 24 June 1994 no. 39, the master of the vessel has the sole responsibility and absolute sovereignty when deciding to avoid servicing ports of call due to extreme weather conditions.

(18) Nevertheless, the HA also provides in section 9.2 that cancellations for other reasons, including cancelled calls at ports, will result in reduced compensation and possible liquidated damages (or claim for compensation in cases of negligence or intent) ([12]).

(19) In any case, according to the Norwegian authorities, the cancellations do not represent savings for the company as such cancellations involve several additional costs in changing the passengers' bookings, and finding alternative transportation of passengers and cargo.

([9]) The complainants point to the fact that in the call for tender for the 2005-2012 contract period *force majeure* as a result of extreme weather conditions was defined as wind speeds over 25 m/s (full storm). However, in the current HA, 'extreme weather conditions' are defined as 'conditions where ocean and/or wind conditions are such that the ship's captain judges it to be unsafe to continue the sailing and/or arrive at a specific port'. This, according to the complainants, has resulted in the majority of the cancellations during the period 2012-2013 in select ports to have occurred at wind conditions below 15 m/s.

([10]) Doc Nos 723002 and 742652.

([11]) The Norwegian authorities submit that according to Hurtigruten's reports, ships were out of production for 171 operating days in 2012 and 186.7 operating days in 2013 due to maintenance and unforeseen operational disturbances, for 5 operating days in 2012 and 12.8 operating days in 2013 due to the ships being used for cultural or similar activities, and finally for 87 operating days in 2012 and 99.8 operating days in 2013 due to extraordinary weather conditions.

([12]) On 12 December 2014, Hurtigruten paid back to the Norwegian authorities the amount of NOK [24 – 32] million due to cancellations in 2012 and 2013.

(20) In reference to the cancellation of services to the port of Mehamn, the Norwegian authorities consider that the decision to leave out the port of Mehamn as from January 2014 and until the port was repaired, was a result of a risk assessment made by Hurtigruten, taking into account the challenging port and weather conditions in line with the *force majeure* provision of section 8 of the HA. The passengers were informed in advance and a land-based transport of cargo was also established between Mehamn and Kjøllefjord. The question of reduction of compensation must be assessed in line with the *force majeure* provision of section 8 of the HA, pursuant to the accounting and other reporting requirements of section 4-4 of the HA. The repairs of the port of Mehamn were completed on 9 September 2014, and Hurtigruten has resumed its sailing.

(21) As far as the allegations regarding the port fees, rent and service charges are concerned, the Norwegian authorities state that their level is based on the new Norwegian Ports Act (NPA) in force as from 1 January 2012 for most ports, replacing the previous NPA of 1984 ([13]). As from that date onwards, the ports can sell services at fair and non-discriminatory prices on a normal contractual basis.

(22) The Norwegian authorities acknowledge that Hurtigruten has indeed approached some of the ports arguing that it is overcharged. This is because, as explained, some ports have conceived the new NPA as giving them the legal basis to increase radically their prices.

(23) It is further stressed that the HA is a net contract, which means that Hurtigruten has the risk for costs and revenues during the period of the agreement and is therefore free to influence its costs, including the port fees, in such a way as to operate the service in the most cost efficient manner. The price adjustment clause of section 5-2 of the HA covers only the compensation under the HA. Any amendments of the port fees and charges to Hurtigruten do not thus lead to compensation reduction.

(24) In this context, the Norwegian authorities point to the mechanism provided in section 7 of the HA for avoiding overcompensation under particular circumstances. This mechanism ensures that each of the parties may demand renegotiations concerning extraordinary adjustment of the compensation, a change in production or other measures, in the event of amendments to acts, regulations or statutory orders, which the parties could not have reasonably foreseen when signing the contract and which entail material extra costs or savings for the contract procuring the service.

(25) The Norwegian authorities submit that the requirement of section 4-2, paragraph 1 of the HA for a minimum capacity is understood to mean that Hurtigruten is obliged to have sufficient capacity available for the public service passengers up to the set capacity requirements. On the other hand, Hurtigruten is allowed to sell tickets to other passengers e.g. cruise passengers, in order to avoid sailing with empty berths and to the extent that this does not prejudge the rights of the public service passengers. In any case, as submitted, it has seldom occurred that there is not enough capacity for the public service passengers as the vessels' capacity for other passengers is higher than the actual demand.

(26) For the contingency, when access is denied to public service passengers, Hurtigruten has introduced a travel guarantee to ensure that these passengers may require either a free travel without berth on the planned journey or a travel with berth on the next scheduled ship, or alternative transport free of charge.

4.1 ***The BDO report*** ([14])

(27) The Norwegian authorities commissioned a report from the consultancy BDO, which looked at Hurtigruten's budgeted and actual financial performance in 2012 and 2013, for, separately: a) the services purchased by the government on the Bergen-Kirkenes route and, b) the totality of services provided by Hurtigruten on the same route (i.e. including both commercial and government-procured services).

(28) In this exercise, BDO distinguished between capacity costs, passenger costs, and costs relating to marketing and sales activities. Capacity costs were then allocated to the government-procured services on the basis of the share of capacity reserved by the government compared to the total capacity of the fleet, whereas passenger costs were allocated on the basis of actual passenger kilometres sailed by distance travellers over the total number of passenger kilometres for all travellers on the fleet. The marketing and sales costs were allocated to the government-procured services on the basis of the share of actual net passenger revenue relating to the PSO passengers compared to the total number of travellers.

(29) […]

([13]) The previous NPA of 1984 distinguished between port fees and service charges. There were several different port fees, e.g. quay fees covering quay costs, approach fees covering costs of keeping the fairway and port approach open and safe, passenger fees covering costs of special passenger facilities etc. Ports could additionally levy service charges for services they sold, which were not covered by the port fees.

([14]) BDO Memo, '*An assessment of Hurtigruten's reported income statements*', Oslo 14 January 2015, p. 7.

II. **ASSESSMENT**

1. **The presence of state aid**

1.1 ***The concept of state aid***

(30) 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.*'

(31) This implies that a measure constitutes state aid within the meaning of Article 61(1) of the EEA Agreement if the following conditions are cumulatively fulfilled. The measure: (i) is granted by the State or through state resources; (ii) confers a selective economic advantage on the beneficiary; (iii) is liable to have an impact on trade between Contracting Parties and to distort competition.

1.2 ***State resources***

(32) The Norwegian authorities, following a tender procedure, concluded a contract with Hurtigruten for the performance of maritime services over the period 2012-2019 against remuneration, as stipulated in detail in the HA. It is thus not disputed that the aid measure has been granted by the State or through state resources.

1.3 ***Impact on trade and distortion of competition***

(33) The measure in question must be liable to have an impact on trade between the Contracting Parties and to distort competition.

(34) According to established case law, when the financial support granted by a Member State strengthens the position of an undertaking compared to other undertakings competing in intra-EEA trade, then there is at least a potential effect on trade between Contracting Parties and on competition ([15]). In this regard, the Authority is of the view that any potential economic advantage granted to Hurtigruten through state resources would fulfil this condition. As the Authority stated in its Decision No 205/11/COL the market for domestic maritime services (maritime cabotage) ([16]), within which Hurtigruten operates, was opened to EEA-wide competition in 1998 ([17]). Moreover, Hurtigruten is also engaged in the tourism sector, in particular through the offer of cruises/round trips along the Norwegian coast. Other operators offer cruises along the same parts of the Norwegian coast ([18]). Moreover, Hurtigruten also operates a number of cruises in various European States.

(35) The only criterion of the notion of state aid that is thus in question is whether the HA has conferred a selective undue economic advantage on Hurtigruten.

1.4 ***Selective economic advantage on Hurtigruten***

(36) The aid measure must confer on Hurtigruten an advantage that relieves it of charges that are normally borne from its budget.

(37) It follows from the *Altmark* judgment that where a State measure must be regarded as compensation for services provided by the recipient undertakings in order to discharge public service obligations, such a measure is not caught by Article 61(1) of the EEA Agreement. 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:

i. *'First, the recipient undertaking must actually have public service obligations to discharge and such obligations must be clearly defined;*

ii. *Second, the parameters on the basis of which the compensation is calculated must be established in advance in an objective and transparent manner […];*

([15]) Judgment in *Philip Morris Holland BV* v *Commission*, 730/79, EU:C:1980:209, paragraph 11; judgment in *Regione Friuli Venezia Giulia* v *Commission*, T-288/97, EU:T:2001:115, paragraph 41; and judgment in *Altmark Trans GmbH and Regierungspräsidium Magdeburg* v *Nahverkehrsgesellschaft Altmark GmbH (Altmark)*, C-280/00, EU:C:2003:415, paragraph 75.

([16]) Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage) (OJ L 364, 12.12.1992, p. 7).

([17]) The maritime cabotage regulation was incorporated at point 53a in Annex XIII to the EEA Agreement (OJ L 30, 5.2.1998, p. 42).

([18]) Norwegian Cruise Line, MSC Cruises, Royal Caribbean, Holland America Line, etc.

iii. *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 for discharging those obligations;*

iv. *Fourth, 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 to the community, 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 provided with means of transport so as to be able to meet the necessary public service requirements, would have incurred in discharging those obligations, taking into account the relevant receipts and a reasonable profit for discharging the obligations.'* ([19])

1.4.1 *The first Altmark condition*

(38) The fulfilment of the first *Altmark* condition must be assessed with regard to Article 4, paragraph 2 of the Maritime Cabotage Regulation, which sets out the specifications that should be part of the definition of a public service obligation, namely: ports to be served, regularity, continuity, frequency, capacity to provide the service, rates to be charged and manning of the vessel.

(39) Further, in accordance with section 9 of the Authority's Maritime Guidelines, '[p]ublic service obligations may be imposed or public service contracts may be concluded for the services indicated in Article 4 of Regulation (EEC) No 3577/92' ([20]).

(40) In the absence of specific EEA rules defining the scope of the existence of a service of general economic interest (SGEI), the Norwegian authorities have a wide margin of discretion in defining a given service as an SGEI and in granting compensation to the service provider. The Authority's competence in this respect is limited to checking whether Norway has made a manifest error when defining the service as an SGEI ([21]).

(41) However, according to the case law, PSOs may only be imposed if justified by the need to ensure adequate regular maritime transport services, which cannot be ensured by market forces alone. It is important for the national authorities therefore to demonstrate that there is a real public service need ([22]). The Communication on the interpretation of the Maritime Cabotage Regulation confirms that '[i]t is for the Member States […] to determine which routes require public service obligations. In particular, public service obligations may be envisaged for regular (scheduled) island cabotage services in the event of market failure to provide adequate services' ([23]).

(42) The Norwegian authorities submit that the public service pursuant to the HA relates to the capacity reserve requirement as defined in section 4-2, and that the public service should not be assessed at the level of the actual use of the service.

(43) Based on the information provided to the Authority ([24]), it appears however that in both 2012 and 2013, less than [10 – 30] per cent of the passenger capacity reserved for public service passengers was utilised. This would indicate that the compensation received by Hurtigruten for reserving capacity for PSO passengers in those two years vastly exceeded actual demand for PSO passenger services. Moreover, the BDO report shows that the capacity utilisation for commercial passengers amounted to [35 – 65] per cent and [35 – 65] per cent in 2012 and 2013 respectively. Given this level of spare capacity for commercial passengers (and the low level of capacity utilisation for PSO passengers), the Authority cannot exclude that a capacity reservation provision for PSO passengers may be unnecessary, especially during the winter season, where the utilisation by commercial passengers would naturally be much lower.

(44) For these reasons, the Authority doubts whether the reserve capacity requirement of section 4-2 of the HA can be classified by Norway as an SGEI and invites the Norwegian authorities to provide objective justification regarding the need for such a PSO, taking into account the seasonal fluctuations of commercial passengers transportation.

(45) The Authority has not received any information on berth utilisation. As regards the cargo transportation for the Tromsø – Kirkenes – Tromsø route, this is not price regulated and according to section 4-3 of the HA, Hurtigruten has full freedom to set the fares. It is doubtful therefore whether the cargo transportation is in compliance with Article 4(2) of the Maritime Cabotage Regulation, which explicitly mentions the elements needed for an adequate definition of a PSO, i.e. among others the rates to be charged.

([19]) Paragraphs 87-93.
([20]) Available at http://www.eftasurv.int/?1=1&showLinkID=15132&1=1.
([21]) Available at http://www.eftasurv.int/media/state-aid-guidelines/Part-VI---Compensation-granted-for-the-provision-of-services-of-general-economic-interest.pdf.
([22]) Judgment in *Alanir and others*, C-205/1999, EU:C:2001:107, paragraph 34.
([23]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions updating and rectifying the Communication on the interpretation of Council Regulation (EEC) No 3577/92 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage), COM(2003) 595 final, 22.12.2003, section 5.2.
([24]) BDO Memo, page 7.

(46) In light of the above, the Authority doubts whether the PSO for cargo transportation has been clearly defined under the HA.

(47) The Authority however, does not doubt that other obligations are clearly defined in section 4-1 of the HA, as regards the supplier obligations in terms of route production requirements, in section 4-2 of the HA, as regards the vessel requirements and in section 4-3 of the HA, as regards fare and discount requirements, with the exception of cargo transportation.

(48) In view of the above, the Authority doubts that the first *Altmark* condition is met.

1.4.2 *The second Altmark condition*

(49) The Norwegian authorities must define *ex ante* the methodology to calculate the compensation for discharging the PSO obligations.

(50) Pursuant to section 4-2 of the HA '[v]essels used on the coastal route shall as a minimum have a passenger capacity for 320 passengers, berth capacity in cabins for 120 passengers and freight capacity for 150 euro pallets (in cargo hold with a normal load height)'.

(51) It is the view of the Norwegian authorities that this condition has been satisfied given that the compensation is calculated on the basis of the elements specified in Annex D to the tender specification, which provides the following:

Table 2 – The elements in the budget scheme for the public service

A: Total revenues distance passengers
B: Passengers cost distance passengers
C: Net passenger revenues (A+B)
D: Revenues from on board sales
E: Net revenues from goods and cars
F: Other revenues
G: Total own revenues (C+D+E+F)
H: Government procurement of service
I: Total revenue (G+H)
J: Safety crew
K: Oil and fuel
L: Repairs and maintenance
M: Port costs
N: Insurance costs
O: Depreciation own vessels/bareboat
P: Net financial costs
Q: Total capacity costs (J+K+L+M+N+P)
R: Cost of goods sold
S: Crew not included in the safety crew
T: Marketing costs and sales provision
U: Administration costs
V: Other costs
W: Total passenger costs (R+S+T+U+V)
X: Total costs public service (Q+W)
Y: Net result before taxes (I-X)

(52) In concluding that the parameters were established in advance in an objective and transparent manner, the Norwegian authorities asked the independent consultant BDO to study Hurtigruten's financial accounts for 2012-2013 and compare the accounts for the public service and the total accounts.

(53) According to the Norwegian authorities, it is thus ensured that the PSO passengers do indeed receive their transport within the capacities set by the HA and that that capacity should be available to the extent that there is actual demand from PSO passengers.

(54) At this stage, it is not clear to the Authority whether the capacity reserve requirement is linked to actual PSO passenger numbers. For example, there seems to be no objective and transparent methodology to calculate in advance the cost per passenger/kilometre.

(55) Hurtigruten, in compliance with the tender specifications, has established a separate budget incorporating all costs and revenues attributed to the PSO routes. According to section 4.9.2 of the tender specifications, this separate accounting aims at ensuring predictability of which cost additions/savings/extra revenues/shortfalls form the basis of any renegotiation, as provided for in sections 6 and 7 of the HA. A further aim is to document that the public procurement process does not entail any unlawful cross-subsidisation. The separate accounting however does not aim at establishing in advance the parameters of the compensation, which shall be directly linked to the actual losses and costs (capacity and passenger costs) incurred by Hurtigruten. ([25]) Instead, the HA has only fixed the annual compensation to be paid for the maritime services for each individual year from 2012 to 2019 based on a minimum commitment for passengers/kilometres per year, without this having any link to the fixed costs (i.e. the capacity costs).

(56) In addition, although the compensation is based on the elements stipulated in table 2, as mentioned above, the Authority has not received any information as to how these costs have been calculated. For instance, sections 6 and 7 of the HA contain certain provisions on the adjustment of compensation in case of changes in production or in case of unforeseen events. Even though certain indications are provided, i.e. a calculation based on the costs and revenues ensuing from the changes in production or an aggregated calculation in the case of unforeseen events, the exact parameters of these adjustments are not known in advance and there are no limitations on how much extra compensation can be granted ([26]).

(57) In this context, as the EFTA Court pointed out in the *Hurtigruten* case, the principle of transparency could have been observed: '*[…] Norway could, if necessary, have made provision, in the notice of invitation to tender, for the possibility of amending the conditions for payment of the successful tenderers in certain circumstances by laying down in particular the precise arrangements for any supplementary compensation intended to cover unforeseen losses and costs*' ([27]).

(58) In addition, section 4-1, item 3 of the HA, provides that '[o]mission of up to 10 days of operation in agreed production per ship per annum due to planned maintenance and unforeseen operational disruption linked to agreed production (off-hire) is considered to be proper fulfilment and shall not entail a deduction in the agreed remuneration in accordance with section 9-2'. The Authority fails to see how this loss in production is calculated and certified in advance in a transparent and objective manner. The 10 days ceiling appears arbitrary and as such does not appear to qualify as an objective estimate of provable loss (e.g. cancellations of service to the port of Mehamn).

(59) The Authority notes that neither HA nor the tender specifications specify whether the compensation awarded includes any profit margin for Hurtigruten, and if so, what the methodology used to calculate this profit margin is, taking into account the risks incurred by the operator in the provision of the service.

(60) Lastly, concerning Hurtigruten's attempts to negotiate lower port fees whilst the Norwegian authorities maintain the compensation at the same level, the Authority underlines that the amount of compensation awarded should be fully reflected in the parameters established in advance including a reasonable profit. As mentioned above, the Authority is of the preliminary view that no parameters have been established to calculate a reasonable profit margin. Therefore, any attempts by Hurtigruten to get lower prices on the port fees while maintaining the compensation at the same level would seem not to satisfy the second *Altmark* condition.

(61) As a result, in view of the above, it is the Authority's preliminary opinion that the second Altmark condition is not fulfilled.

1.4.3 *The third Altmark condition*

(62) When granting compensation, the Norwegian authorities should ensure that it does not exceed what is necessary to cover all or part of the costs incurred in discharging the PSO, taking into account relevant receipts and a reasonable profit.

(63) In this regard, the EFTA Court already held in the *Hurtigruten* case:

'If it is shown that the compensation paid to the undertakings operating the public service does not reflect the costs actually incurred by that undertaking for the purposes of that service, such a system does not satisfy the requirement that compensation cannot exceed what is necessary to cover all or part of the costs incurred in the discharge of public services obligations, taking into account the relevant receipts and a reasonable profit for discharging those obligations' ([28]).

([25]) Joined Cases E-10/11 and E-11/11 *Hurtigruten* [2012] EFTA Ct. Rep. 758, paragraph 117.
([26]) Ibid, paragraphs 128-129.
([27]) Ibid, paragraph 127.
([28]) Paragraph 170. See for comparison, judgment in *Enirisorse*, C-34/01 to C-38/01, EU:C:2003:640, paragraphs 37-40.

(64) Briefly, according to the complainants' arguments, presented in further detail in paragraph (13) above:

i) Hurtigruten does not reserve capacity for public service passengers, but rather sells the capacity to cruise passengers, while maintaining the public service compensation at the same level;

ii) The compensation for providing the public service has increased substantially as compared to the previous contract period;

iii) Hurtigruten continues to receive compensation for services that are not rendered; and, lastly

iv) Hurtigruten further attempts to get lower prices for the harbour fees, while maintaining the public service compensation at the same level;

(65) As regards the first point, the Authority reminds the Norwegian authorities that under the third *Altmark* condition, only the costs incurred in discharging the PSO shall be covered. Any compensation granted to cover costs outside the public service remit cannot be held to constitute compensation for PSO. Therefore, when the capacity (passengers and berth) for PSO passengers is sold to commercial cruise passengers, and given that the BDO report does not provide any information on the capacity utilisation to justify the opposite, it appears that Hurtigruten is paid twice for the same service, which would in principle constitute a form of overcompensation.

(66) The Authority is conscious that the figures presented in the BDO report are annual figures and therefore correspond to average capacity utilisation throughout the year. Accordingly, there may be periods of the year where capacity utilisation for public service passengers is higher, and where it is indeed also necessary to have in place a capacity reservation mechanism. The Authority, however, cannot rule out that the mechanism used in the HA overcompensates Hurtigruten in that it does not take into account different (e.g. seasonal) levels of capacity utilisation during the year.

(67) The Authority takes note of the travel guarantee subsequently introduced, as mentioned above in paragraph (26), to 'compensate' the public service passengers for their lost travel and correct any alleged overcompensation. However, until the introduction of that travel guarantee, public service passengers appear at times to have been unable to benefit from the public service, although the costs were evidently covered by the compensation already granted to Hurtigruten. Also, at this stage it is not clear to the Authority whether the cost of providing a free travel without berth on the planned journey or a travel with berth on the next scheduled ship or alternative transport free of charge equals the compensation that Hurtigruten has received to cover the cost of public service berth capacity, which is sold to commercial cruise passengers. It appears therefore that such a mechanism, due to the limited (on average) capacity utilisation in both the PSO and cruise segment, is an ineffective and relatively costless service for Hurtigruten that does not offset the advantage gained through the excess capacity reservation, which is freely sold to cruise passengers.

(68) Concerning the second point, as noted above in paragraph (13), and as evident from the Authority's Decision No 205/11/COL, the Norwegian authorities paid Hurtigruten a total compensation of NOK 1 899.7 million to carry out the same PSO routes during the period 2005-2012. More specifically, the annual compensation for the year 2011 amounted to NOK 236.8 million ([29]). Taking into account that the compensation for 2012 under the current HA amounted to NOK 700 million, the Authority expresses its doubts as to whether the increase in compensation is justified under the HA. The Norwegian authorities claim that there have been considerable losses for Hurtigruten in the period 2005-2012 to justify the increase of the compensation. However, the Authority is of the preliminary view that due to the fact that the previous HA had not envisaged separation of accounts, it is not possible to determine whether these losses were caused by commercial or PSO activities. In any case, it is questionable how such a higher compensation can be justified, when the scope of the PSO remains the same as in the previous contract period (in terms of sailing frequency and number of ports served) and the capacity reservation has decreased from 400 passengers to 320 and from 150 berths to 120.

(69) In relation to the third point, the Authority notes that when Hurtigruten keeps on its books compensation that has been granted to cover the costs of transporting PSO passengers, without however rendering the service to them (or when the service is not required), overcompensation cannot be excluded.

(70) Particularly, section 8 of the HA provides for the operator to keep the compensation granted in case of interruptions of sailings due to events that constitute *force majeure*. It is generally accepted that the decision to avoid servicing ports of call due to extreme weather conditions lies with the master of the vessel. However, the Authority questions at this stage the fact that, as provided for in section 8 of the HA, '[…] any cancelled production ensuing from force majeure shall not be considered as a non-conformity in the production under section 4-1, item 3' and thus not lead to any reduction in the compensation.

(71) On the basis of the information provided ([30]), it appears to the Authority that the phenomenon of extreme weather condition constitutes a normality in the maritime business along the Norwegian coast. It might thus be considered as a foreseen event. However, it is not reflected as such in the compensation calculations. The compensation has been calculated as a lump sum *ex ante* for the whole contract period, without taking into account an objective estimate of a provable loss due to foreseen extreme weather conditions.

([29]) Section 2.
([30]) See footnote 11.

(72) In reference to the cancellation of services to the port of Mehamn, which, according to the complainant, resulted in Hurtigruten receiving monthly cost savings at the amount of NOK 314 500 over a period of around 8 months, the Authority is not at this stage convinced by the Norwegian authorities' suggestion that this situation should be assessed in the context of the *force majeure* provision of the HA. According to the information provided by the complainants, the port was damaged in 2012 by Hurtigruten itself, which nevertheless continued serving the port until January 2014. Therefore, the Authority cannot see at this stage how this cancellation could be held to have taken place due to unforeseen events, which would entitle the operator to keep the compensation granted.

(73) Finally, concerning the last point and Hurtigruten's attempts to negotiate lower port fees whilst the Norwegian authorities maintain the compensation at the same level, it should be noted that there should not be any overcompensation above the level of a reasonable profit. Therefore, a reduction in port fees should result in lower compensation, whereas higher port fees would respectively mean a higher compensation. In light of this, at this stage the Authority is of the opinion that any attempts by Hurtigruten to get better prices of the port fees while maintaining the compensation at the same level, would not ensure that overcompensation is excluded.

(74) The Norwegian authorities point to section 7 of the HA as establishing a mechanism to avoid overcompensation. Section 7, however, refers to unforeseen costs resulting from events that are independent of Hurtigruten's management decisions, such as amendments to acts, regulations or statutory orders. To claim compensation for such costs, it must be proved by the operator that those costs are genuinely incurred in the discharge of the PSO, and the costs must be well documented, so as to ensure that the ultimate compensation received by Hurtigruten does not exceed its actual costs. The Authority at this stage cannot see how section 7 of the HA can ensure that overcompensation is avoided.

(75) Lastly, the contract does not contain any claw back clause such that if any agreed profit margin is exceeded, the surplus must be returned to the State or deducted from the compensation paid in the next year or perhaps over the contract period.

(76) In view of the above, the Authority cannot exclude that Hurtigruten has been overcompensated for the provision of the public service. As a result, the Authority doubts whether the third *Altmark* condition has been fulfilled.

1.4.4 *The fourth Altmark condition*

(77) Referring to the tender procedure carried out which resulted in only one bid, Hurtigruten's, the Norwegian authorities argue that the tender was designed in such a way as to attract more bidders. In this respect, it is argued that the tender was widened to include maritime services that would not run on a daily basis throughout the year and that the required minimum capacity was reduced from 400 to 320 passengers and from 150 to 120 berth bunks. Additionally, the deadline for submitting the bids was extended from 30 September until 8 November 2010 on request from an interested operator, whereas overall there was sufficient time allowed from the deadline for submitting bids (8 November 2010) until the date of commencement of the services (1 January 2013).

(78) Despite the above arguments as well as the fact that subsequent negotiations took place between the Norwegian authorities and Hurtigruten, which resulted in a reduction of the compensation for the whole contract period in relation to the initial offer, see paragraph (15), the Authority at this stage doubts whether a tender procedure such as the one at issue, where only one bid is submitted, can be deemed sufficient to ensure 'the least cost to the community' ([31]), for the reasons listed below.

(79) Hurtigruten had already run this particular maritime service consisting of the combined transport of persons and goods along the Norwegian coast from Bergen to Kirkenes for years ([32]). As the incumbent operator, Hurtigruten thus had a significant competitive advantage that reinforced its position in the tender procedure, given that it had already in its possession vessels adapted to the requirements of the tender specifications.

(80) Furthermore, according to the tender specifications, the assignment for carrying out the PSO was advertised as three alternatives:

i. Alternative 1: Daily sailing throughout the year to 34 ports;

ii. Alternative 2: Sailings 7 days a week in summer (8 months), 5 days a week in winter (4 months), to 34 ports; and

iii. Alternative 3: Sailings 5 days a week throughout the year to 34 ports.

([31]) Paragraph 68, http://www.eftasurv.int/media/state-aid-guidelines/Part-VI---Compensation-granted-for-the-provision-of-services-of-general-economic-interest.pdf.

([32]) For background information on the Hurtigruten Agreement, see Decision No 205/11/COL on the Supplementary Agreement on the Hurtigruten service, section 2, OJ L 175, 5.7.2012, p. 19 and EEA Supplement No 37, 5.7.2012, p. 1.

(81) However, the tender specifications do not provide any clarifications as to the criteria used to award the service. The Procurement Notice refers to the lowest price as the sole award criterion used for the service in question. Although, in itself the 'lowest price' criterion could satisfy the fourth *Altmark* condition, nevertheless in the case at hand, this reference is very abstract and cannot be assessed in isolation. The fact that there were three alternatives would indicate the existence of further information and/or weighting criteria among those alternatives. In view of the fact that such information was not included in the tender documents, the Authority doubts whether the tender as designed has provided incentives to potential bidders, apart from Hurtigruten, that would have been willing to bid in accordance with the requirements of the three different alternatives and for a different alternative than the one actually chosen (i.e. alternative 1).

(82) The Norwegian authorities have not submitted any information on the second leg of the fourth *Altmark* condition, concerning whether the level of compensation needed is determined on the basis of an analysis of the costs of a typical undertaking, well run and adequately equipped.

(83) In view of the above, the Authority doubts that the fourth *Altmark* condition is met.

1.4.5 *Conclusion on the Altmark conditions*

(84) Based on the information submitted, the Authority cannot, at this stage, conclude that the compensation awarded under the Coastal Agreement for Hurtigruten Maritime Services for the period 2012-2019 complies with all the four conditions in the *Altmark* judgement. The Authority thus cannot exclude the presence of an advantage within the meaning of Article 61(1) EEA, granted to an undertaking for performing public service obligations.

2. **Conclusion on the presence of aid**

(85) The Authority takes the preliminary view that the compensation awarded under the Coastal Agreement for Hurtigruten Maritime Services for the period 2012-2019 may entail state aid within the meaning of Article 61(1) of the EEA Agreement.

3. **Procedural requirements**

(86) 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*'.

(87) The Norwegian authorities did not notify the HA to the Authority. Should the Authority therefore conclude that the Norwegian authorities have not respected their obligations pursuant to Article 1(3) of Part I of Protocol 3, there would be a breach of the standstill obligation, without prejudice to the application of the SGEI Decision as below mentioned.

4. **Compatibility of the aid**

4.1 ***The legal framework***

(88) The compatibility of public service compensation for maritime transport is assessed on the basis of Article 59(2) of the EEA Agreement in conjunction with the Authority's Framework for state aid in the form of public service compensation ('the Framework') ([33]).

(89) The principles set out in the Framework apply to public service compensation only in so far as it constitutes state aid not covered by Commission Decision 2012/21/EU on the application of Article 106(2) of the Treaty of the Functioning of the European Union to state aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest ('SGEI Decision') ([34]).

(90) According to the case-law of the Court of Justice, it is up to the Member State to invoke possible grounds for compatibility and to demonstrate that the conditions of compatibility are met ([35]). The Norwegian authorities consider that the measure at hand does not constitute state aid pursuant to the *Altmark* jurisprudence, and therefore has not provided any grounds for compatibility.

4.2 ***Applicability of Decision 2012/21/EU***

(91) The SGEI Decision lays down the conditions under which certain types of public service compensation are to be regarded as compatible with the functioning of the EEA Agreement pursuant to its Article 59(2) and exempt from the requirement of prior notification under Article 1(3) of Part I of Protocol 3 to the Surveillance and Court Agreement.

([33]) Available at http://www.eftasurv.int/media/state-aid-guidelines/Part-VI---Framework-for-state-aid-in-the-form-of-public-service-compensation.pdf.
([34]) OJ L 7, 11.1.2012, p. 3, incorporated at point 1h of Annex XV of the EEA Agreement.
([35]) Judgment in *Italy* v *Commission*, C-364/90, EU:C:1993:157, paragraph 20.

(92) There is one exception from the notification requirement of Article 2 of the SGEI Decision, which might be relevant in the present case:

> *'(d) compensation for the provision of services of general economic interest as regards air or maritime links to islands on which the average annual traffic during the 2 financial years preceding that in which the service of general economic interest was assigned does not exceed 300 000 passengers';*

(93) The Authority has not received any information from the Norwegian authorities as regards the applicability of the said exception. The Authority therefore doubts whether the Bergen – Kirkenes public service route concern an annual traffic not exceeding the threshold of 300 000 passengers.

(94) In light of the doubts expressed above under paragraphs (49) to (85) on alleged overcompensation, the Authority further doubts whether the Norwegian authorities have ensured, pursuant to Article 5 of the SGEI decision, that Hurtigruten does not receive compensation in excess of the amount needed to cover the net cost incurred in discharging the public service obligations, including a reasonable profit.

(95) The Authority additionally invites the Norwegian authorities, in the event of the measure falling under the above exception, to justify whether the provisions of Article 4 (entrustment), Article 6 (control of overcompensation) and Article 7 (transparency) of the SGEI Decision are complied with.

4.3 ***Applicability of the Framework***

(96) On the basis of the provisions of the Framework, one of the compatibility conditions that must be fulfilled is that the entrustment act which specifies the public service obligation, in this case the HA, shall include *'[a] description of the compensation mechanism and the parameters for calculating, monitoring and reviewing the compensation'*.

(97) Further, according to the Framework, *'[t]he amount of compensation must* not *exceed what is necessary to cover the net cost of discharging the public service obligations, including a reasonable profit'*. The Framework also clarifies that *'[t]he net cost necessary, or expected to be necessary, to discharge the public service obligations should be calculated using the net avoided cost methodology […]'*. ([36])

(98) On the basis of the considerations in paragraphs (49) to (85), at this stage the Authority considers that Hurtigruten may have been overcompensated for the provision of the public service.

(99) The compatibility of the HA shall also be assessed against the following conditions as provided for by the Framework:

a. Paragraph 14: proper consideration to the public service needs;

b. Paragraph 19: compliance with EEA public procurement rules;

c. Paragraph 20: absence of discrimination;

d. Paragraph 24 to 38: calculation of the net cost necessary to discharge the PSO;

e. Paragraphs 39 to 50: efficiency incentives;

f. Paragraphs 51 to 59: no affectation of trade development to an extent contrary to the interests of the EEA;

g. Paragraph 60: transparency.

(100) The Norwegian authorities have not put forward any compatibility considerations. Therefore at this stage, the Authority raises doubts as to whether the compensation awarded under the Coastal Agreement for Hurtigruten Maritime Services for the period 2012-2019 is compatible with the functioning of the EEA Agreement.

5. **Conclusion**

(101) As set out above, the Authority has doubts as to whether the HA entails state aid within the meaning of Article 61(1) of the EEA Agreement.

(102) The Authority also has doubts as to whether the HA is compatible with the functioning of the EEA Agreement.

([36]) See also paragraphs 27 and 28 of the Framework for alternative calculation methods.

(103) Consequently, and in accordance with Article 4(4) of Part II of Protocol 3, the Authority is obliged to open the formal investigation procedure provided for in Article 1(2) of Part I of Protocol 3. The decision to open a formal investigation procedure is without prejudice to the final decision of the Authority, which may conclude that the HA does not constitute aid or that it is aid compatible with the functioning of the EEA Agreement.

(104) The Authority, acting under the procedure laid down in Article 1(2) of Part I of Protocol 3, invites the Norwegian authorities to submit, within one month of the date of receipt of this Decision, their comments and to provide all documents, information and data needed for the assessment of the HA in light of the state aid rules.

(105) The Authority requests the Norwegian authorities to forward a copy of this decision to Hurtigruten.

(106) The Authority must remind the Norwegian authorities that, according to Article 14 of Part II of Protocol 3, any incompatible aid unlawfully granted will in principle have to be recovered, unless this recovery would be contrary to a general principle of EEA law.

HAS ADOPTED THIS DECISION:

Article 1

The formal investigation procedure provided for in Article 1(2) of Part I of Protocol 3 is opened into the Coastal Agreement for Hurtigruten Maritime Services 2012-2019.

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 of the date of receipt of this Decision. They are further requested to provide, also within one month of the date of receipt of this Decision, all documents, information and data needed for assessment of the compatibility of the aid measure.

Article 3

This Decision is addressed to the Kingdom of Norway.

Article 4

Only the English language version of this decision is authentic.

Done at Brussels, on 9 December 2015.

For the EFTA Surveillance Authority

Sven Svedman
President

Helga Jónsdóttir
College Member

Norvēģijas paziņojums par Eiropas Parlamenta un Padomes Direktīvu 94/22/EK par atļauju piešķiršanas un izmantošanas noteikumiem ogļūdeņražu meklēšanai, izpētei un ieguvei

Paziņojums par uzaicinājumu pieteikties naftas ieguves licenču saņemšanai Norvēģijas kontinentālajā šelfā – piešķīrumi iepriekšnoteiktos apgabalos 2016. gadā

(2016/C 236/12)

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c) kandidāta iepriekšējā pieredze saistībā ar Norvēģijas kontinentālo šelfu vai līdzvērtīga atbilstošā pieredze saistībā ar citiem apgabaliem;

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[1] OV L 164, 30.6.1994., 3. lpp.

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Pieteikumi naftas ieguves licenču saņemšanai iesniedzami:

Ministry of Petroleum and Energy
P.O. Box 8148 Dep.
N-0033 Oslo
NORWAY

Divas kopijas ir jāiesniedz:

The Norwegian Petroleum Directorate
P.O. Box 600
N-4003 Stavanger
NORWAY

Termiņš: otrdiena, 2016. gada 6. septembris, plkst.12.00.

Naftas ieguves licenču piešķiršana Norvēģijas kontinentālajā šelfā 2016. gadā iepriekšnoteiktos apgabalos plānota 2017. gada pirmajā ceturksnī.

V

(Atzinumi)

ADMINISTRATĪVAS PROCEDŪRAS

EIROPAS KOMISIJA

Uzaicinājums iesniegt priekšlikumus saistībā ar Eiropas infrastruktūras savienošanas instrumenta daudzgadu darba programmu finansiālā atbalsta piešķiršanai Eiropas energoinfrastruktūras jomā laikposmam no 2014. līdz 2020. gadam

(Komisijas Lēmums C(2016) 1587)

(2016/C 236/13)

Ar šo Eiropas Komisijas Enerģētikas ģenerāldirektorāts uzaicina iesniegt priekšlikumus, lai piešķirtu dotācijas atbilstīgi prioritātēm un mērķiem, kas noteikti Eiropas infrastruktūras savienošanas instrumenta daudzgadu darba programmā Eiropas energoinfrastruktūras jomā laikposmam no 2014. līdz 2020. gadam.

Priekšlikumi iesniedzami attiecībā uz šādu uzaicinājumu:

CEF-Energy-2016-2

Provizoriskā summa, kas pieejama priekšlikumiem, kuri atlasīti saskaņā ar šo uzaicinājumu iesniegt priekšlikumus, ir EUR 600 miljoni.

Priekšlikumu iesniegšanas termiņš ir **2016. gada 8. novembris**.

Šā uzaicinājuma pilns teksts ir pieejams:

https://ec.europa.eu/inea/en/https%3A//ec.europa.eu/inea/en/connecting-europe-facility/cef-energy/calls/second-2016-cef-energy-call-proposals-2016-2

PROCEDŪRAS, KAS SAISTĪTAS AR KONKURENCES POLITIKAS ĪSTENOŠANU

EIROPAS KOMISIJA

Iepriekšējs paziņojums par koncentrāciju

(Lieta M.8094 – *BNP Paribas Fortis Private Equity Belgium*/*Sofindev IV*/*DHAM*/*Novy International*)

Lieta, kas pretendē uz vienkāršotu procedūru

(Dokuments attiecas uz EEZ)

(2016/C 236/14)

1. Komisija 2016. gada 21. jūnijā saņēma paziņojumu par ierosinātu koncentrāciju, ievērojot Padomes Regulas (EK) Nr. 139/2004 ([1]) 4. pantu, kuras rezultātā uzņēmumi *BNP Paribas Fortis Private Equity Belgium* NV ("*BNPPF PE*", Beļģija), *Sofindev IV* NV ("*Sofindev*", Beļģija) un *DHAM* NV ("*Korys*/*Colruyt Group*", Beļģija) Apvienošanās regulas 3. panta 1. punkta b) apakšpunkta nozīmē iegūst kopīgu kontroli pār uzņēmumu *Novy International* NV ("*Novy*", Beļģija), iegādājoties daļas.

2. Attiecīgie uzņēmumi veic šādu uzņēmējdarbību:

— *BNPPF PE*: privātkapitāla un mezonīna finansējums. Uzņēmuma portfelī iekļautās sabiedrības darbojas tādās jomās kā metāla un plastmasas izstrādājumu piegāde un ražošana, kapitāla nodrošināšana augstskolās dibinātiem jaunuzņēmumiem, konditorejas izstrādājumi, rūpnieciski pakalpojumi un nekustamais īpašums,

— *Sofindev*: privātkapitāla ieguldījumi mazos un vidējos uzņēmumos Beļģijā. Tā portfeļa uzņēmumi izplata jumta un fasādes materiālus un izstrādā uz lokalizācijas balstītus programmatūras risinājumus,

— *Korys*/*Colruyt Group*: mazumtirdzniecība, vairumtirdzniecība un ēdināšanas pakalpojumi. Uzņēmums darbojas arī programmatūras risinājumu, ilgtspējīgas/atjaunojamas enerģijas projektu un medicīnas/dzīvības zinātnes jomās,

— *Novy* projektē, ražo un pārdod augstas kvalitātes virtuves ierīces, galvenokārt plītis.

3. Iepriekšējā pārbaudē Komisija konstatē, ka uz paziņoto darījumu, iespējams, attiecas Apvienošanās regulas darbības joma. Tomēr galīgais lēmums šajā jautājumā netiek pieņemts. Ievērojot Komisijas paziņojumu par vienkāršotu procedūru dažu koncentrācijas procesu izskatīšanai saskaņā ar Padomes Regulu (EK) Nr. 139/2004 ([2]), jānorāda, ka šī lieta ir nodota izskatīšanai atbilstoši šajā paziņojumā paredzētajai procedūrai.

4. Komisija aicina ieinteresētās trešās personas iesniegt tai savus iespējamos apsvērumus par ierosināto darījumu.

Apsvērumiem jānonāk Komisijā ne vēlāk kā 10 dienu laikā pēc šīs publikācijas datuma. Apsvērumus Komisijai var nosūtīt pa faksu (+32 22964301), pa e-pastu uz adresi COMP-MERGER-REGISTRY@ec.europa.eu vai pa pastu ar atsauces numuru M.8094 – *BNP Paribas Fortis Private Equity Belgium*/*Sofindev IV*/*DHAM*/*Novy International* uz šādu adresi:

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

([1]) OV L 24, 29.1.2004., 1. lpp. ("Apvienošanās regula").
([2]) OV C 366, 14.12.2013., 5. lpp.

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