

Brussels, 15 October 2020
Case No: 85649
Document No: 1154749
Decision No 118/20/COL

Ministry of Trade, Industry and Fisheries
PO Box 8090 Dep
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NORWAY

Subject: COVID-19 Prolongation of guarantee scheme for airlines

1 Summary

- (1) The EFTA Surveillance Authority (“ESA”) wishes to inform Norway that, having assessed the prolongation of the COVID-19 guarantee scheme for airlines (“the measure”), it considers that the measure constitutes state aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections¹ to it, as the measure is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(b). ESA has based its decision on the following considerations.

2 Procedure

- (2) The Norwegian authorities notified the measure on 14 October 2020.²

3 Description of the measure

3.1 The COVID-19 guarantee scheme for airlines

- (3) By [Decision No 029/20/COL](#) of 30 March 2020 (“the Approval Decision”), ESA approved a scheme aiming to remedy a serious disturbance in the airline industry, and the resulting liquidity shortage, by means of state guarantees (“the Approval Decision”). By [Decision No 089/20/COL](#) of 10 July 2020 (“the Renewal Decision”), ESA approved a renewal of the scheme with one amendment, namely the introduction of an alternative to the loss distribution requirement in paragraph 25(f) of the Temporary Framework for state aid measures to support the economy in the current COVID-19 outbreak (“[the Temporary Framework](#)”).³ ESA approved the renewed and amended guarantee scheme (“the Guarantee scheme”) directly under Article 61(3)(b).
- (4) The Guarantee scheme expires on 31 October 2020.

3.2 The notified prolongation

- (5) The COVID-19 outbreak is still on-going. In the spring of 2020, the Norwegian airlines were estimating return to normal business in the fall of 2021, but the

¹ Reference is made to Article 4(3) of the Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

² Document Nos 1158078 and 1158079.

³ Communication from the Commission – Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak of 19 March 2020, OJ C 91, 20.3.2020, p. 1. [amended](#) thrice at that time: (i) 3.4.2020, OJ C 112, 4.4.2020, p. 1, (ii) 8.5.2020 OJ C 164, 13.5.2020, p. 3, and (iii) 29.6.2020, OJ C 218, 2.7.2020, p. 3. The Temporary Framework has since been amended a fourth time and prolonged: 13.10.2020, OJ C 340, 13.10.2020, p.1.

prognoses are now more pessimistic.⁴ While many national authorities eased travel restrictions during the summer period, travel restrictions and quarantine measure have now been re-imposed across Europe.⁵ Many measures have been announced on short notice resulting in considerable uncertainty for the airline sector and its customers. Both the Norwegian Government and the Norwegian Institute of Public Health are currently advising against all non-essential travels to other countries.⁶ In addition, a ten-day quarantine currently applies to people arriving to Norway from nearly all countries. Similar restrictions apply in other European countries.

- (6) The demand for airline services continues to decrease and airlines fail to fill up their flights. In this respect, Avinor⁷ reports a decline in the number of passengers on both domestic and international flights in August 2020 compared to July 2020.⁸ In the second quarter of 2020, Statistics Norway reported a decline in passengers of 74.9% on commercial domestic flights and 97.6% on commercial international flights compared to the same quarter last year.⁹ In the same period, the number of seats dropped by 55.4% on commercial domestic flights and by 90.1% on international commercial flights. According to Avinor's monthly report for August, the number of terminal passengers for 2020 is currently down by 49% for domestic flights and 71.3% for international flights, compared to last year.¹⁰ This decline in travel therefore continues to put tremendous pressure on the airlines' liquidity and their overall financial situation. In Norway, the on-going crisis has resulted in the dismissal of several hundred pilots and even more ground personnel.¹¹
- (7) Currently, only roughly 50% of the total budget of the Guarantee scheme has been committed. Specifically, the Guarantee scheme has so far provided access to financing to Norwegian Air Shuttle (NOK 3 billion) and Airwing (NOK 9 million).¹² As the COVID-19 crisis has proven more severe and long-lasting than first anticipated, the Norwegian authorities find that airlines will need access to the Guarantee scheme also after 31 October 2020.
- (8) Against this background, the Norwegian authorities argue that a prolongation of the scheme until 31 December 2020 is vital to ensure the continued provision of airline services in the aftermath of the COVID-19 outbreak.

⁴ Proposal for Parliament [Prop. 142 S \(2019–2020\)](#) *Measures to combat the spread of the virus*, page 52.

⁵ <https://www.fhi.no/nettpub/coronavirus/fakta/reiserad-knyttet-til-nytt-koronavirus-coronavirus/?term=&h=1#utenlandsreiser>.

⁶ https://www.regjeringen.no/en/topics/foreign-affairs/reiseinformasjon/travel_coronavirus/id2691821/, <https://www.fhi.no/en/op/novel-coronavirus-facts-advice/facts-and-general-advice/travel-advice-COVID19/>.

⁷ Avinor currently owns 42 airports in Norway.

⁸ See <https://avinor.no/konsern/om-oss/trafikkstatistikk/trafikkstatistikk>.

⁹ Data available at: <https://www.ssb.no/flytrafikk>.

¹⁰ See <https://avinor.no/konsern/om-oss/trafikkstatistikk/trafikkstatistikk>.

¹¹ https://www.nrk.no/nordland/wideroe_-sas-og-nho-er-bekymret-for-hosten_-moter-regjeringen-til-krisemote-1.15133884.

¹² <https://www.regjeringen.no/no/aktuelt/ny-side16/id2765145/>.

- (9) The national legal basis for the prolongation is the Parliamentary Decision authorising the prolongation of the Guarantee scheme.¹³

4 Presence of state aid

- (10) 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.”
- (11) The qualification of a measure as aid within the meaning of this provision therefore requires the following cumulative conditions to be met: (i) the measure must be granted by the State or through State resources; (ii) it must confer an advantage on an undertaking; (iii) favour certain undertakings (selectivity); and (iv) threaten to distort competition and affect trade.
- (12) ESA has concluded that the Guarantee scheme constitutes state aid within the meaning of Article 61(1) of the EEA Agreement. As the measure is a pure prolongation, that conclusion remains unaltered.

5 Procedural requirements

- (13) Pursuant to Article 1(3) of Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice (“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.”
- (14) The Norwegian authorities have notified the measure, which will only enter into force subject to the approval by ESA. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

6 Compatibility of the aid measure

- (15) Pursuant to Article 61(3)(b) of the EEA Agreement, ESA can declare state aid compatible with the functioning of the EEA Agreement “to remedy a serious disturbance in the economy of an EFTA State”.
- (16) In the context of the current COVID-19 outbreak, the Commission adopted the Temporary Framework that sets out temporary state aid measures that it considers compatible under Article 107(3)(b) TFEU, which corresponds to Article 61(3)(b) of the EEA Agreement.
- (17) In order to ensure uniform application of the state aid rules throughout the EEA, in line with the objective of homogeneity established in Article 1 of the EEA Agreement, ESA applies the compatibility conditions set out in the Temporary Framework to state aid granted by the EEA EFTA States under Article 61(3)(b) in the context of the COVID-19 outbreak.

¹³ See proposal from the Ministry: [Prop 142 S \(2019-2020\) Financial measures in response to the virus outbreak](#). Adopted without amendments: <https://www.stortinget.no/no/Saker-og-publikasjoner/Publikasjoner/Innstillinger/Stortinget/2020-2021/inns-202021-019s/?m=3>.

- (18) In the Renewal Decision, ESA approved the Guarantee scheme directly under Article 61(3)(b), as the renewal introduced an alternative to the loss distribution requirement in paragraph 25(f) of the Temporary Framework. Save for this aspect, the Norwegian authorities have designed the Guarantee scheme to comply with Section 3.2 of the Temporary Framework. ESA's compatibility assessment is set out in paragraphs 39 to 82 of the Renewal Decision, as well as paragraphs 41 to 63 of the Approval Decision.
- (19) The notification leaves the Guarantee scheme unaltered, apart from the prolongation. ESA concurs that the prolongation is appropriate, due to the persisting challenges in the airline sector, now facing a tightening of the containment measures in Norway and in Europe, including the re-introduction of travel restrictions and quarantine measures. ESA also notes that the new duration of the Guarantee scheme is in line with paragraph 25(c) of the Temporary Framework, according to which the guarantees can be granted by 31 December 2020 at the latest.
- (20) Against this background, ESA considers that the notified prolongation does not affect the compatibility assessment of the Guarantee scheme, as set out in the Renewal Decision and the Approval Decision.

7 Conclusion

- (21) ESA considers that the prolongation of the Guarantee scheme constitutes state aid with the meaning of Article 61(1) of the EEA Agreement. Since no doubts are raised that this aid is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(b), ESA has no objections to the implementation of the measure.
- (22) The Norwegian authorities have confirmed that the notification does not contain confidential information.

For the EFTA Surveillance Authority,

Yours faithfully,

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President
Responsible College Member

Frank J. Büchel
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*This document has been electronically authenticated by Bente Angell-Hansen,
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