



ROYAL NORWEGIAN MINISTRY  
OF TRANSPORT AND COMMUNICATIONS

EFTA Surveillance Authority (ESA)  
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Your ref  
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## Complaint against Norway toll road project Nordhordlandspakken

Reference is made to the letter of 16 January 2018 from the EFTA Surveillance Authority ("The Authority") to the Ministry of Transport and Communications ("The Ministry") concerning the complaint raised in relation to the Norwegian toll project Nordhordlandspakken. The letter requests further information about the toll project, in order to determine whether the complaint is justified.

According to our understanding, the complainant alleges that the toll arrangement for Nordhordlandspakken is not compatible with Directive 1999/62 *on the charging of heavy goods vehicles for the use of certain infrastructures* ("the Directive"), and, in particular with the so-called "user pays" principle enshrined in the Directive according to which infrastructure charges shall be based on the principle of the recovery of the costs for the infrastructure concerned. The majority of the income from the toll collection points on the E39 motorway will be used for infrastructure projects on the local road network, and not for infrastructure projects on the E39. We understand that the complainant argues that there therefore is no discernible connection between the tolls levied and the costs of construction, and that this is not compatible with the principles laid down in the Directive. In connection with this, the Authority refers to the requirements for maintaining or introducing tolls set down in Article 7 of the Directive, paragraph 7(2) to (10).

The Ministry refers to the fact that infrastructure investments totalling around NOK 317 million (in 2017 NOK value) have been planned as part of Nordhordlandspakken on the E39. It has been estimated that vehicles with a permissible maximum weight exceeding 3.5 tonnes, i.e. vehicles covered by the requirements set down in the Directive, will contribute to around NOK 175-215 million (in 2017 NOK value) towards the investments in Nordhordlandspakken via the toll collection points on the E39. This means that this toll

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contribution will amount to around 55-70 percent of the costs associated with the infrastructure investments on the E39. We are therefore unable to see that there are grounds to claim that the level of the toll for vehicles exceeding 3.5 tonnes on the E39 is not proportional to the costs associated with the implementation of infrastructure projects on the E39. Furthermore, we cannot see that there are grounds to claim that the majority of the toll collected from these vehicles on the E39 will be used to subsidize projects on the local road network, as long as this toll contribution is lower than the costs associated with the investment projects on the E39.

As with other toll packages, it is assumed that the total infrastructure investment in Nordhordlandspakken will be adjusted to the financial resources available. The package will be managed as a portfolio. If any projects cost more than originally planned, other projects will receive less or no investment. If some projects are less expensive than expected, there will be room for more projects or alternatively the collection time may be reduced. Please keep in mind that the infrastructure investments on the E39 are also included in the portfolio and can receive a higher or lower priority compared with the other projects in the package.

The Ministry would like to point out that the Directive provides greater freedom in terms of which costs can be covered by tolls than what is ordinary practice for tolling projects in Norway. Article 7(9) of the Directive states that collected tolls can be used to cover the costs associated with the development, construction, operation and maintenance of the road network concerned. In Norway, the Norwegian Parliament sets down that tolls cannot be used for operation and maintenance of roads, and that tolls can be collected only for a temporary period normally not exceeding 15 years. For the purpose of Nordhordlandspakken, it has been assumed that net toll income will be used only to cover the costs associated with the construction of road infrastructure. The collection period for Nordhordlandspakken is limited to 12 years.

Based on the above, the toll arrangements for Nordhordlandspakken have been assessed to be in accordance with the requirements set down in Article 7 of the Directive.

Requested information concerning Nordhordlandspakken:

1. *Overview of all infrastructure projects related to the project Nordhordlandspakken including all relevant information regarding the tolls that are levied currently or will be levied in the future.* The Ministry refers to the enclosed Proposition to the Storting ("Bill") for Nordhordlandspakken, which provides an overview of all projects scheduled for implementation, the intended location of toll collection points and the toll rates that will apply, cf. Chapter 3 and 5 of Bill 164 S (2016-2017), Appendix 1.

As shown in table 3.1 of the Bill, the following infrastructure projects are planned to be implemented on the E39:

- E39 Knarvik Centre. The project concerns the expansion of the road to four lanes and the construction of a new roundabout to the east. The preliminary estimated cost for the project is NOK 185 million in 2017-value.
- E39 Molvik Junction. The project concerns traffic safety measures and has a preliminary estimated cost of NOK 22 million in 2017-value.
- E39 Vikane – Eikangervåg. The project concerns improvements to the stretch of road, including the construction of a pedestrian and cycle path, and has a preliminary estimated cost of NOK 110 million in 2017-value.

In total, these three projects will involve infrastructure investments on the E39 totalling approximately NOK 317 million in 2017-value.

The projects on the E39 will improve traffic flow, traffic management and safety for both local traffic and through traffic on the E39. The region hosts diverse industries. The Mongstad industrial area, with more than 100 different industrial companies and nearly 3,000 employees is located here, among others. The infrastructure projects on the E39 are therefore important to industrial transport in the region, and will contribute to reducing transport costs for goods and industrial transport.

2. *The calculation of the level of weighted average tolls that will be applied in connection with the Nordhordlandspakken*

A total of five toll sections will be established, cf. figure 5.1 of Bill 164 S (2016-2017), which will contribute to the financing of the projects in Nordhordlandspakken. Two of the toll sections will be established on the E39, at E39 Flatøy and E39 Mundalsberget respectively. The remaining three toll sections will be established in the general road network in the area. Please note that toll section 1 is not located on the E39, but on the entry and exit ramps. This is not clear from the map due to the resolution.

It has been assumed that vehicles in rate group 2 (vehicles with a total permissible weight exceeding 3.5 tonnes covered by the provisions in the Directive) will pay a toll rate corresponding to approximately NOK 31 using 2017 values. No discounts are granted for vehicles in rate group 2, cf. Chapter 5 in Bill 164 S (2016-2017).

As set out in the enclosed traffic note (Appendix 4), annual average daily traffic of around 15,800 vehicles has been calculated for the toll collection points on the E39 in 2012, or around 17,000 vehicles in 2018 when taking traffic growth during the period into account. Furthermore, the annual average daily traffic for vehicles exceeding 3.5 tonnes, and covered by the provisions in the Directive has been calculated to be around 8-10 per cent of the total traffic passing the toll collection points on the E39, corresponding to 1400-1700 vehicles, cf. also the enclosed traffic counts, page 49 and 50 (Appendix 5).

With an estimated toll rate of NOK 31 and a collection period of 12 years, it is estimated that the vehicles covered by the provisions in the Directive (rate group 2) will contribute around NOK 200-240 million in 2017 values in gross toll income from collections at the toll collection points on the E39. Furthermore, it has also been estimated that the total toll contribution from these vehicles will be around NOK 175-

215 million in 2017 values, subject to a nominal estimated borrowing interest of 4.5 percent, an annual price increase of 2.5 percent and an annual traffic growth of 1 percent. This amounts to approximately 55-70 percent of the total costs for the projects on the E39, for which the preliminary estimated cost is NOK 317 million in 2017 values. This means that the anticipated toll contribution from these vehicles will not be sufficient to finance the costs associated with the infrastructure projects on the E39.

3. *Description of how the infrastructure charges (as part of the tolls levied in connection with the Nordhordlandspakken) are based on the principle of the recovery of the infrastructure costs and how the weighted infrastructure charge is related to the construction costs and the costs of operating, maintaining and developing the infrastructure network concerned.*

In line with current practice in Norway, Nordhordlandspakken assumes that the tolls collected shall be used only to cover costs associated with the construction of road infrastructure, and the toll road operator's costs associated with borrowing and collection of tolls and financing, cf. Chapter 5 in Bill 164 (2016-2017). The collection period for Nordhordlandspakken is limited to 12 years.

Based on the aforementioned Items 1-3, we cannot see that there are grounds to claim that the tolls collected from vehicles exceeding 3.5 tonnes at the toll collection points on the E39 will be used to subsidise projects on the local road network and/or that the average toll charges for these vehicles are not in proportion to the costs associated with infrastructure projects on the E39. The provisions set down in Article 7a(1), 7(9), 7b(1) and (2) of the Directive are therefore deemed to have been met.

4. Relevant national legislation and other official documents of interest for the case

Please find enclosed the official documents that we believe to be of relevance to the matter. Regrettably, there are no English translations available for the following documents.:

- Appendix 1: Bill for Nordhordlandspakken, Bill 164 S (2016-2017).
- Appendix 2: External quality assurance report for Nordhordlandspakken.
- Appendix 3: The Norwegian Public Roads Administration's documentation for Nordhordlandspakken.
- Appendix 4: Traffic note for Nordhordlandspakken presenting the analyzes of the anticipated traffic basis at the toll collection points that will be financing Nordhordlandspakken.
- Appendix 5: The Norwegian Public Roads Administration's traffic count, showing the proportion of heavy vehicles in the section of the E39 in which the toll collection points will be located.

Please do not hesitate to contact the Ministry if you have any further questions.

Yours sincerely

Ola Brattegard  
Deputy Director General

Kari Johanne Hjeltnes  
Senior Adviser

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

Encl.