Embættisafgreiðslur skrifstofu borgarstjórnar 30. nóvember 2017 - R17100479

	Fundargerðir:	
	Annað:	
R17110081	Styrkumsókn hollvinasamtaka dráttarbátsins Magna, dags. 14.11.2017, vegna viðgerða og viðhalds á dráttarbátnum.	Sent borgarsögusafni til umsagnar.
R11060102	Afgreiðsla skipulagsnefndar Mosfellsbæjar, dags. 30. október 2017, á breytingu á aðalskipulagi Reykjavíkur 2010-2030 vegna Laugavegs-Skipholts reit 25.	Sent umhverfis- og skipulagssviði til kynningar.
R11060102	Afgreiðsla skipulagsnefndar Garðabæjar, dags. 17. október 2017, á breytingu á aðalskipulagi Reykjavíkur 2010-2030 vegna Laugavegs-Skipholts reit 25.	Sent umhverfis- og skipulagssviði til kynningar.
R17100039	Undirskriftarlisti vegna flutningshús á lóðina Bergstaðarstræti 18	Sent skrifstofu eigna og atvinnuþróunar til meðferðar.
R17070048	Fyrirspurn borgarráðsfulltrúa Sjálfstæðisflokksins og áheyrnarfulltrúa Framsóknar og flugvallarvina um lagaheimildir til grundvallar deiliskipulagi Landsímareits	Sent borgarlögmanni til umsagnar.
R17050020	Fyrirspurn borgarráðsfulltrúa Sjálfstæðisflokksins um stöðu tillögu um endurbætur á gamla Gufunesveginum	Sent umhverfis- og skipulagssviði til umsagnar.
R17110137	Fyrirspurn borgarráðsfulltrúa Sjálfstæðisflokksins um kaup á landi við Sævarhöfða	Sent skrifstofu eigna og atvinnuþróunar til umsagnar.
R17110138	Fyrirspurn borgarráðsfulltrúa Sjálfstæðisflokksins um ásigkomulag Álftamýrarskóla	Sent skrifstofu eigna og atvinnuþróunar og umhverfis- og skipulagssviði til umsagnar
R17010082	Yfirlit yfir viðskipti við innkaupadeild í október 2017	Sent borgarfulltrúum til kynningar
R17110152	Umsagnarbeiðni um nýtt lyfsöluleyfi við Hafnarstræti 19, dags. 24. 11. 2017	Sent umhverfis- og skipulagssviði til umsagnar.
R17110153	Erindi Sorpu bs., dags. 23. nóvember 2017, varðandi móttöku og flokkun á plasti til endurvinnslu	Sent borgarfulltrúum til kynningar.
R11060102	Afgreiðsla skipulagsnefndar Mosfellsbæjar, dags. 27. nóvember 2017, á breytingu á aðalskipulagi Reykjavíkur 2010-2030 vegna Álfsnesvíkur.	Sent umhverfis- og skipulagssviði til kynningar.
R17050132	Fyrirspurn foreldrafélaga í Breiðholti, dags. 21. nóvember 2017, um afgreiðslu áskorunar um gjaldfrjáls skólagögn.	Sent skrifstofu borgarstjóra og borgarritara til meðferðar.
R15090102	Beiðni Ólafs Gylfasonar, dags. 24. nóvember 2017, um gögn á grundvelli upplýsingalaga um útgjöld til skólamála og yfirstjórnar	Sent skrifstofu borgarstjóra og borgarritara til meðferðar.
R17110091	Bókun borgarráðsfulltrúa Sjálfstæðisflokksins um hleðslustöðvar fyrir rafbíla við Arnarbakka og Völvufell	Sent skrifstofu eigna og atvinnuþróunar til meðferðar
R17110083	Erindi samgöngu- og sveitarstjórnarráðuneytisins, dags. 14.	Sent skrifstofu borgarstjóra og borgarritara til meðferðar.

	nóvember 2017, um starfshóp um heildaryfirferð regluverks um leigubifreiðaakstur.	

S. Björn Blöndal
Formaður borgarráðs
Reykjavíkurborg
Ráðhús Reykjavíkur
Tjarnargötu 11
101 Reykjavík

Reykjavík, 14. nóvember 2017

Hollvinasamtök dráttarbátsins Magna eru samtök sem stofnuð voru 25. júní á þessu ári, í samvinnu við Borgarsögusafn Reykjavíkur og hafa það að markmiði að standa að viðgerð og varðveislu skipsins.

Stjórn hollvinasamtakanna er vel mönnuð, öflug og samhent. Í henni eru Axel Orri Sigurðsson, stýrimaður, Böðvar Eggertsson, vélfræðingur og kennari í Vélskólanum í Reykjavík, Jón Ingi Jónsson stjórnsýslufræðingur, Bárður Hafsteinsson skipaverkfræðingur og Friðrik Friðriksson, sem er fyrrum bátsmaður hjá Eimskip.

Magni hefur þá sérstöðu að vera fyrsta stálskipið smíðað á Íslandi, árið 1954, en það var teiknað af Hjálmari R. Bárðarsyni, skipaverkfræðingi og siglingamálastjóra. Sags skipsins er snar þáttur í sögu Reykjavíkur og Faxaflóahafna, þar sem það gegndi því hlutverki að lóðsa skip inn í Reykjavíkurhöfn, ásamt því að vera ísbrjótur. Skipið var farsællega starfrækt í rúm 30 ár, frá 1955 til 1987. Nú liggur skipið við landfestar í Vesturbugt, gegnt varðskipinu Óðni og hefur alla burði til þess að vera hin mesta hafnarprýði á þessu svæði, sem er í mikilli sókn.

En til þess að svo geti orðið þarf fjármagn til löngu tímabærrar slipptöku, en skipið fór síðast í slipp árið 2005 og er komið á þann stað að ástand fer hratt versnandi. Því þarf að bregðast við hratt og örugglega.

Hollvinasamtök Magna hafa gert áætlun um viðgerð og varðveislu skipsins og hafa þegar hafist handa af fullum krafti. Hollvinasamtökin hafa leitað til fjölda fyrirtækja, einstaklinga og stofnana um ýmsa fyrirgreiðslu og framlög og hefur orðið nokkuð ágengt. Sjálfboðaliðar í hollvinasamtökunum hafa varið miklum tíma í vinnu um borð, unnið af eldmóði og orðið verulega ágengt. Nú þegar hefur verið ráðist í hreinsun inni í skipinu í samvinnu við Borgarsögusafn og tryggt að það haldi vatni og vindum í vetur, auk þess sem unnið er að því að koma hita og rafmagni um borð. En stærsta og brýnasta verkefnið til að tryggja varðveisluna til lengri tíma, er að koma skipinu í slipp, þar sem ástand skrokks skipsins verður metið, auk þess sem það verður málað og sinkað (til að koma í veg fyrir áframhaldandi ryð og eyðingu málmsins).

Þar sem töluvert fjármagn þarf til þessa verks óska Hollvinasamtöklin eftir einskiptisframlagi frá Reykjavíkurborg til að standa undir kostnaði við slipptökuna. Samkvæmt tilboði frá Stálsmiðjunni-Framtak er slipptaka áætluð upp á 3.143.000 kr, fyrir utan endurnýjun á stormhurðum sem kosta um 1.700.000. kr. Samtals gera þetta 4.843.000 kr (sjá meðfylgjandi greinargerð).

Hér með er sótt um styrk frá borgarráði til viðgerðar og viðhalds þessa merka skipa, að upphæð 3.500.000 kr. Með þessu framlagi verður gríðarlegum áfanga í viðgerð og viðhaldi Magna náð, eyðileggingarferli skipsins verður þar með snúið við og í kjölfarið má segja að hann verði kominn á lygnan sjó til næstu ára.

Með von um að vel verði tekið í þessa ósk okkar.

Fyrir hönd stjórnar Hollvinasamtaka Magna,

Axel Orri Sigurðsson, formaður.

Axel Orri Sigurðsson

Dagss.: 14.06.2017

Ref: Faxaflóahafnir ehf

Til:	Frá:
Axel Orri Sigurðsson	Stálsmiðjan - Framtak ehf. Vesturhraun 1 210 Garðabær
GSM: 821 5884	GSM: 660 3545
Sími:	Sími: 552 4400
Símbréf:	Símbréf: 552 5504
Attn: Axel Orri Sigurðsson	Netfang: bth@stalsmidjan.is
Netfang: axelsigurds97@gmail.is	

Málefni: Slipptaka á Magna II RE

Um leið og við þökkum fyrir fyrirspurn ykkar sendum við eftirfarandi tilboð í slipptöku, málningu ofl.:

1. Upp- og framsátur.
Taka skipið upp og sjósetja að nýju þegar slippvinnu líkur ásamt stöðu í slipp daginn sem skipið er tekið upp. Reiknað er með að vinna fari fram innan hefðbundins vinnutíma Stálsmiðjunnar – Framtaks ehf.
Verð kr. 285.000,-

2. Staða í slipp.
Slipp leiga per dag umfram fyrsta dag. Reiknast m.v. unna daga.
Verð per dag kr. 22.000,-

3. Rafmagn.
Landleiga og kapalleiga kr. 20.000,-
Rafmagnsnotkun per kWst kr. 14,00

4. Álanóður.
Álanóða ákominn per kg. kr. 2.550,-

5. Botnþvottur og botnmálning tveggja ára kerfi.
Hreinsa botn með háþrýstiþvotti. Hreinsað er með 400-600 bara þrýstingi þannig að öll óhreinindi og laus málning fari af. Opnun hreinsun og lokun á sjóinntökum er innifalið.
Bletta allt að 25 % af botni 2 umferðir með grunni og heilmála tvær umferðir með botnmálningu.
Verð samtals : kr. 875.000,-

6. Þvo og mála síður.
Þvo síður eins og botn í kafla 5. Bletta allt að 20 % af fletinum, grunna tvisvar og heilmála með lakki og merkja.
Verð samtals : kr. 305.000,-

7. Þvottur og málun ofandekks.
Þvottur og málun eins og á síðum samkvæmt málningarkerfis frá Hempels.
Verð samtals : kr. 895.000,-

Reykjavíkurborg

Ráðhúsinu
101 Reykjavík

Mosfellsbæ, 30.10.2017
erindi nr. *201710106*/19.2 *ÓM*

Efni: Afgreiðsla skipulagsnefndar vegna erindis yðar

Á 447. fundi skipulagsnefndar Mosfellsbæjar 27. 10 2017, var neðangreint erindi tekið fyrir og svohljóðandi bókun gerð:

> **Aðalskipulag Reykjavíkur 2010-2030 - Laugavegur-Skipholt reitur 25**
>
> **Borist hefur erindi frá Reykjavíkurborg dags. 6.október 2017 varðandi breytingu á Aðalskipulagi Reykjavíkur 2010-2030, Laugavegur-Skipholt, reitur 25.**
>
> **Lagt fram. Ekki er gerð athugasemd við erindið.**

Afgreiðsla skipulagsnefndar er gerð með fyrirvara um staðfestingu bæjarstjórnar Mosfellsbæjar og verður yður gert viðvart ef afgreiðsla erindisins verður á annan veg í bæjarstjórn en hér er tilkynnt.

Þetta tilkynnist hér með.

Virðingarfyllst,
f.h. skipulagsnefndar Mosfellsbæjar

Skipulagsfulltrúi Mosfellsbæjar
Ólafur Melsted
Skipulagsfulltrúi

GARÐABÆR
www.gardabaer.is

Reykjavíkurborg
Ráðhúsinu
101 Reykjavík

Garðabæ, 17.10.2017
Mál nr. 1710094

Efni: Aðalskipulag Reykjavíkur - Laugavegur-Skipholt, reitur 25

Á fundi skipulagsnefndar þann 12.október sl var tekið fyrir ofangreint mál og eftirfarandi bókun gerð.

„Engar athugasemdir eru gerðar við verklýsingu aðalskipulagsbreytingarferlisins."

Afgreiðslu málsins er vísað til bæjarstjórnar.

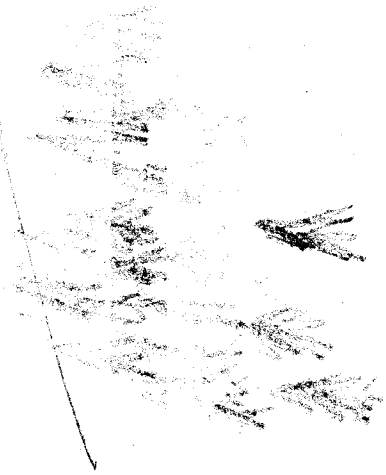
Virðingarfyllst,

Arinbjörn Vilhjálmsson
skipulagsstjóri

Við, undirritud, styðjum það heilshugar að húsið, sem stóð áður við Bergstaðastræti 7, verði flutt á lóðina Bergstaðastræti 18.

Hvetjum við borgaryfirvöld til að leiða þetta gott ordið og götumyndin ordið heil.

Nafn	Kennitala	Heimilisfang
Ásta M Einarsd.	140528-3829	Bergstaðastr 21
Líkn Birgisdóttir	220583-3689	Bergstaðastræti 22
Kjöt og Fiskur, Bombay ehf.		Gunnlaugur Þór Kristinsson kt. 1910882209
verslunarstjóri Jón E. Guðmundsdóttir	020153-3779	Bergstaðastr. 17
Gísli Halldór	141250-3889	Bergstaðastræti 17
Ragnheiður Ástudóttir	071056-4579	Bergstaðastræti 16
Birkir R.		— " —
Guðný Stefanía Kristjánsdóttir	260945-2039	Bergstaðastræti 18
Esther Talía Casey	251177-5389	Bergstaðastræti 14
Elín Eik Eyjólfsdóttir	121077-5587	Bergstaðastræti 14
Ráðhildur Ingadóttir	040459-4649	Bergstaðastræti 14
Sigrún Þórðardóttir	130750-4359	Bergstaðastr. 19 101 R



BORGARRÁÐ 16. nóvember 2017: Fyrirspurn borgarráðsfulltrúa Sjálfstæðisflokksins og áheyrnarfulltrúa Framsóknar og flugvallarvina um lagaheimildir til grundvallar deiliskipulagi Landsímareits - R17070048

Óskað er eftir áliti borgarlögmanns á því hvaða lagaheimildir liggja til grundvallar deiliskipulagi, sem kveður á um að grafinn verði kjallari í austurhluta Víkurkirkjugarðs og stór hótelbygging reist þar ofan á. Í álitinu verði eftirfarandi spurningum m.a. svarað: Samræmast fyrirætlanir um stórtæka uppbyggingu í kirkjugarðinum lögum um kirkjugarða? Í lögum nr. 36 frá 1993, sbr. eldri lög, er skýrt kveðið á um að niðurlagðir kirkjugarðar séu friðhelgir. Þar segir einnig að löglegur safnaðarfundur geti að tilteknum tíma liðnum frá niðurlagningu fengið garðinn í hendur sveitarfélagi „sem almenningsgarð með tilteknum skilyrðum.“ Þá segir í sömu lagaheimild að heimilt sé að slétta niðurlagðan kirkjugarð, sem löngu er hætt að jarða í, ef kirkjugarðaráð og ráðuneyti samþykkja. Ekki megi þó nota niðurlagðan kirkjugarð til neins þess sem óviðeigandi er að dómi prófasts og ekki megi gera þar jarðrask né gera þar nein mannvirki. Ráðuneytið getur með samþykki kirkjugarðaráðs veitt undanþágu frá banni þessu. Ströng skilyrði gilda um tilfærslu og flutning samkvæmt lögunum og brot á þeim varðar refsingu. Hafa skipulagsyfirvöld kannað hver sé réttmætur eigandi kirkjugarðsins og hvort væntanlegur byggingaraðili hafi heimild til að byggja hótel á landi garðsins? Sóknarnefnd Dómkirkjunnar telur að Víkurgarður sé í umsjá hennar fyrir hönd kirkjunnar. Sóknarnefndin telur að henni sé heimilt að lögum að heimila Reykjavíkurborg að skipuleggja garðinn sem almenningsgarð en önnur ráðstöfun sé ekki heimil.

BORGARRÁÐ 16. nóvember 2017: Fyrirspurn borgarráðsfulltrúa Sjálfstæðisflokksins um stöðu tillögu um endurbætur á gamla Gufunesveginum R17050020

Fulltrúar Sjálfstæðisflokksins ítreka tillögu sína frá 4. maí sl. um endurbætur á gamla Gufunesveginum á kaflanum frá Stórhöfða að sjúkrahúsinu Vogi. Vegurinn er í slæmu ásigkomulagi og hafa m.a. myndast djúpar holur í honum. Jafnframt var lagt til að göngu og hjólreiðatengsl við sjúkrahúsið verði bætt. Stígur meðfram Stórhöfða verði tengdur sjúkrahúsinu sem og sá hluti gamla Gufunesvegarins, sem nýtist nú sem göngu- og hjólreiðastígur og liggur frá sjúkrahúsinu niður í voginn og tengist þar stígakerfi Foldahverfis. Meira en hálft ár er nú liðið frá því umrædd tillaga var lögð fram og er því óviðunandi að hún hafi ekki enn verið tekin til afgreiðslu. Þá er rétt að geta þess að sambærileg tillaga Sjálfstæðisflokksins um málið var samþykkt í borgarráði 18. desember 2014 og er einnig óviðunandi að henni skuli enn ekki hafa verið framfylgt. Óskað er eftir því að málið verði tekið til afgreiðslu sem fyrst svo framkvæmdir í þágu bætts aðgengis að sjúkrahúsinu Vogi geti farið fram á næsta ári. R17050020

BORGARRÁÐ 23.11.'17: Fyrirspurn borgarráðsfulltrúa Sjálfstæðisflokksins um kaup á landi við Sævarhöfða - R17110137

Óskað er eftir upplýsingum um fyrirhuguð kaup Reykjavíkurborgar á landi við Sævarhöfða, m.a. hvernig staðið hefur verið að verðmati landsins.

BORGARRÁÐ 23.11.'17: Fyrirspurn borgarráðsfulltrúa Sjálfstæðisflokksins um ásigkomulag Álftamýrarskóla (Háaleitisskóla) - R17110138

Óskað er eftir greinargerð um ásigkomulag Álftamýrarskóla (Háaleitisskóla). Fregnir hafa borist af því að ástand glugga, gluggakerfa og steyptra útveggja sé slæmt víða í skólabyggingunni og þá hafa starfsmenn kvartað yfir líkamlegum óþægindum. Hefur verið skorið úr um hvort mygluskemmdir séu á húsnæðinu?

Reykjavíkurborg
Fjármálaskrifstofa
innkaupadeild

Reykjavík, 3. nóvember 2017
R17010075

Borgarráð
Ráðhúsi Reykjavíkur

Efni: Skýrsla samkvæmt 37. gr. innkaupareglna Reykjavíkurborgar
Um er að ræða lægstbjóðendur nema annað sé tekið fram.

Yfirlit yfir verkefni innkaupadeildar f.h. upplýsingatæknideildar Reykjavíkurborgar í október 2017

Teg. verks / vöru / þjónustu	Seljandi / samn.aðili	Samningsverð	Áætl. kostnaður	Teg. samn./ samn.tími	Innkaup / útboð / fyrirspurn	Hver tók ákvörðun
Hugbúnaðarleyfi frá ESRI	Samsýn ehf	33.975.000	27.000.000	Pöntun	EES Útboð	Innkauparáð
Ljósleiðaratengingar starfsstaða	Símafélagið ehf., Fjarskipti hf./ Vodafone	13.056.707, 4.497.882	Óþekkt	Pöntun	Örútboð innan rammasamn.	upplýsinga-tæknideild

Yfirlit yfir verkefni innkaupadeildar f.h. Reykjavíkurborgar - skrifstofu borgarstjóra og borgarritara í október 2017

Teg. verks / vöru / þjónustu	Seljandi / samn.aðili	Samningsverð	Áætl. kostnaður	Teg. samn./ samn.tími	Innkaup / útboð / fyrirspurn	Hver tók ákvörðun
Spurningakönnun fyrir Reykjavíkurborg	Maskína ehf	2.033.600	1,6 mkr.	Pöntun	Verðfyrirspurn	skrifstofa borgarstjóra og borgarritara

Yfirlit yfir verkefni innkaupadeildar f.h. Reykjavíkurborgar í október 2017

Teg. verks / vöru / þjónustu	Seljandi / samn.aðili	Áætl. velta á ársgrundvelli	Teg. samn./ samn.tími	Innkaup / útboð / fyrirspurn	Hver tók ákvörðun
Símaþjónusta og símtæki	Nova ehf., Nýherji hf., Fjarskipti hf., Opin kerfi ehf., Síminn hf.	76,0 m.kr.	Rammasamn. / samn.lok 23.11.18	EES útboð	Innkauparáð
Eldsneyti fyrir Reykjavíkurborg	Atlantsolía ehf., N1 hf., Olíuverzlun Íslands hf., Skeljungur hf.	75,0 m.kr.	Rammasamn. / samn.lok 6.11.21	EES útboð	Innkauparáð

Guðbj. Eggertsd.

Guðbjörg Eggertsdóttir
innkaupadeild Reykjavíkurborgar

Borgartún 12-14
105 Reykjavík
Kt. 530269-7609
Sími 411 1111
www.reykjavik.is/utbod

Lyfjastofnun
Icelandic Medicines Agency

Borgarstjórn Reykjavíkur
Ráðhúsi Reykjavíkur
101 Reykjavík

Reykjavík, 24.11.2017
Tilvísun: 7.1.4.1 / Málsnúmer: 2017110288

Efni: Umsagnar leitað vegna nýs lyfsöluleyfis

Lyfjastofnun barst 20. nóvember sl. umsókn frá lyfjafræðingi, um lyfsöluleyfi fyrir nýja lyfjabúð, að Hafnarstræti 19, 101 Reykjavík.

Samkvæmt 3. mgr. 20. gr. lyfjalaga nr. 93/1994 skal Lyfjastofnun senda umsóknir um ný lyfsöluleyfi viðkomandi sveitarstjórn til umsagnar. Fram kemur í ákvæðinu að við mat umsóknar skuli m.a. stuðst við íbúafjölda að baki lyfjabúðinni og fjarlægð hennar frá næstu lyfjabúð. Leggist umsagnaraðili gegn veitingu leyfis er Lyfjastofnun heimilt að hafna umsókninni.

Með vísan til framangreinds óskar Lyfjastofnun hér með eftir umsögn borgarstjórnar Reykjavíkur um umsóknina.

Þess er óskað að umsögnin berist svo fljótt sem auðið er og **eigi síðar en 15. desember nk.**

F.h. Lyfjastofnunar,

Brynhildur Briem

Pósfang/Address: Vínlandsleið 14 | 113 Reykjavík | Iceland | Sími /Tel. +354 520 2100 | Fax +354 561 2170
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SORPA
ÁRANGUR Í UMHVERFISMÁLUM

ÍST ISO 9001 ÍST ISO 14001

Bæjarráð Garðabæjar
Garðatorgi 7
210 Garðabær

Reykjavík 23. nóvember 2017

VARÐAR: MÓTTAKA OG FLOKKUN Á PLASTI TIL ENDURVINNSLU

Stjórn SORPU bs. ákvað á fundi sínum þann 12. maí sl. að komið yrði upp búnaði fyrir flokkun á plastpokum sem innihalda plastumbúðir frá heimilum frá almennum úrgangi sem fer í svokallaða Orkutunnu (gráu/svörtu tunnuna). Búnaðurinn verður settur upp á fyrstu vikum ársins 2018 og verður samkvæmt núverandi áætlunum kominn í gagnið í viku 7 (þ.e.a.s. um miðjan febrúar). Undirbúningur er hafinn að kynningu á verkefninu fyrir íbúa þeirra sveitarfélaga sem ætla sér að nýta þessa leið en slíka kynningu vill SORPA vinna í nánu samstarfi við sveitarfélögin. Óskað er eftir því að sveitarfélögin tilnefni tengilið kynningarmála, þannig að kynningin skili sem mestum árangri.

Ofangreind breyting mun ekki hafa áhrif á gjaldskrá fyrir móttöku úrgangs úr Orkutunnunni enda er gert ráð fyrir að endurgreitt úrvinnslugjald kosti þær breytingar sem SORPA hefur lagt í. Góður árangur getur hins vegar leitt til lækkunar á móttökugjaldi – því er mikilvægt að öll kynning sé markviss. Það plast sem þannig flokkast fer til endurvinnslu eins og annað það flokkaða plast sem SORPA tekur við.

Vinsamlega tilkynnið um tengilið á netfangið ragna.halldorsdottir@sorpa.is.

f.h. SORPU bs.

Björn H. Halldórsson
framkvæmdastjóri

AFRIT

SAMRIT:

Bæjarráð Hafnarfjarðar
Bæjarráð Garðabæjar
Bæjarráð Mosfellsbæjar
Bæjarráð Seltjarnarnesbæjar

AFRIT:

Bæjarráð Kópavogs
Borgarráð Reykjavíkur

SORPA bs. Gylfaflöt 5 112 Reykjavík Sími 520 2200 Fax 520 2209 sorpa@sorpa.is Kt. 510588-1189 Vsknr. 15528

Reykjavíkurborg

Ráðhúsinu
101 Reykjavík

Mosfellsbæ, 27.11.2017
erindi nr. *201710282/19.2 ÓM*

Efni: Afgreiðsla skipulagsnefndar vegna erindis yðar

Á 449. fundi skipulagsnefndar Mosfellsbæjar 24. 11. 2017, var neðangreint erindi tekið fyrir og svohljóðandi bókun gerð:

> **Aðalskipulag Reykjavíkur 2010-2030 - Álfsnesvík**
>
> **Á 448. fundi skipulagsnefndar 10. nóvember 2017 var gerð eftirfarandi bókun: .Lagt fram. Ekki er gerð athugasemd við erindið. Skipulagsnefnd bendir þó á og leggur áherslu á að vandað verði til verka við alla útfærslu verksins. Stærsta útivistarsvæði Mosfellsbæjar og eitt fjölskrúðugasta fuglasvæði á höfuðborgarsvæðinu er við Leirvoginn sem er í næsta nágrenni við fyrirhugaða framkvæmd í Álfsnesvík. Á 705. fundi bæjarstjórnar 15. nóvember 2017 vísaði bæjarstjórn erindinu aftur til skipulagsnefndar.**
>
> **Skipulagsnefnd telur að umrædd starfsemi falli ekki undir þann landnýtingarflokk sem fram kemur í erindinu og óskar því eftir umsögn Skipulagsstofnunar um það.**

Afgreiðsla skipulagsnefndar er gerð með fyrirvara um staðfestingu bæjarstjórnar Mosfellsbæjar og verður yður gert viðvart ef afgreiðsla erindisins verður á annan veg í bæjarstjórn en hér er tilkynnt.

Þetta tilkynnist hér með.
Virðingarfyllst,
f.h. skipulagsnefndar Mosfellsbæjar

Skipulagsfulltrúi Mosfellsbæjar

Ólafur Melsted
Skipulagsfulltrúi

Athygli er vakin á því að telji einhver rétti sínum hallað með ofangreindri samþykkt er honum heimilt að skjóta máli sínu til úrskurðarnefndar umhverfis- og auðlindamála, Skúlagötu 21, 101 Reykjavík, sbr. 52.gr. laga nr. 123/2010 og lög nr. 130/2011.

Þeir einir geta skotið máli til úrskurðarnefndarinnar sem eiga lögvarða hagsmuni tengda hinni kærðu ákvörðun. Frestur til að skjóta máli til nefndarinnar er einn mánuður frá því að kæranda varð kunnugt eða mátti vera kunnugt um ákvörðun þá sem kæra á. Sé um að ræða ákvörðun sem sætir opinberri birtingu, telst kærufrestur frá birtingu ákvörðunar.

Reykjavík 21. nóvember 2017

Borgarráð Reykjavíkur
b.t. borgarstjóra / borgarráðs / borgarfulltrúa
Tjarnargötu 11
101 Reykjavík

Í upphafi skólaárs sendu foreldrafélög allra grunnskóla í Breiðholti áskorun til borgaryfirvalda þar sem tekið var undir áskorun Barnaheilla um að yfirvöld virði réttindi barna til gjaldfrjálsrar grunnskólamenntunar, líkt og Barnasáttmáli Sameinuðu þjóðanna kveður á um, en ríflega 40 sveitafélög hafa þegar tekið ákvörðun um að afla börnum gjaldfrjálsra námsgagna.

Í viðtali við RUV þann 22. ágúst 2017 segir Sigurður Björn Blöndal "að krafan um ókeypis skólagögn fyrir grunnskólanema verði tekin fyrir í næstu fjárhagsáætlun borgarinnar og hann eigi von á að einhver útfærsla af því verði samþykkt."

Á fundi stjórnar allra foreldrafélaga og skólastjórnenda í Breiðholti, sem haldinn var í Fellaskóla þann 20. nóvember, var samþykkt að senda fyrirspurn og spyrja um stöðu þessa máls. Nú hefur fjárhagsáætlun verið samþykkt og í greinagerð með fjárhagsáætlun kemur ekkert fram um að til standi að afla gjaldfrjálsra skólagagna.

Foreldrafélögin fimm óska eftir **skriflegum svörum** um hver fyrirætlan borgarinnar er varðandi **gjaldfrjáls skólagögn**.

Svar óskast á netfang sendanda og jafnframt netföng þeirra sem veita nánari upplýsingar, sjá hér að neðan.

Foreldafélög grunnskóla í Breiðholti fengu Hvatningarverðlaun Heimilis og skóla árið 2017 fyrir öflugt samstarf.

Foreldrafélag Breiðholtsskóla
Foreldrafélag Fellaskóla
Foreldrafélag Hólabrekkuskóla
Foreldrafélag Seljaskóla
Foreldrafélag Ölduselsskóla

Nánari upplýsingar veita
Anna Sif Jónsdóttir í síma 867 8269, annasifj@gmail.com
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Borgarráð Reykjavíkur
b.t. borgarstjóra / borgarráðs / borgarfulltrúa
Tjarnargötu 11
101 Reykjavík

Reykjavík, 24. nóvember 2017

Efni: Beiðni um upplýsingar og gögn á grundvelli upplýsingalaga nr. 140/2012

Undirritaður óskar eftir neðangreindum upplýsingum frá Reykjavíkurborg hvort sem þær er að finna í reikningum og/eða áætlunum Reykjavíkurborgar og hvort sem þær er að finna í reikningum Reykjavíkurborgar eða dótturfélaga þessa (A og B hluta).

Hér með er þess farið á leit að veittur verði aðgangur að eftirfarandi upplýsingum og gögnum:

A. Upplýsingar um útgjöld (rekstur) vegna allra vegna grunn- og leikskóla Reykjavíkurborgar (líka einkarekna) fyrir árin 2006 til 2018 að báðum árum meðtöldum (s.s. fjárhagsáætlun fyrir 2018, Esk. áætlun vegna 2017 og rauntölur vegna árana 2006-2016).

   Upplýsingarnar óskast sundurliðaðar þ.e.a.s. rekstrarkostnaður með og án húsnæðisliðar.

B. Upplýsingum um fjölda nemenda í leik- og grunnskólum sundurliðað eftir skólum fyrir árin 2006-2017 (bæði ár meðtalin).

C. Upplýsingar um fjölda starfsmanna við hvern leik- og grunnskóla á árunum 2006 til 2017 (bæði ár meðtalin), sundurliðað eftir menntun starfsmanna eða sérsviðs (þroska-, iðjuþjálfi, sálfræðingur, hjúkrunarfræðingur, o.sfrv).

D. Upplýsingar um útgjöld (rekstur) vegna yfirstjórna Reykjavíkurborgar árin 2006 til 2018 að báðum árum meðtöldum (s.s. fjárhagsáætlun fyrir 2018, Esk. áætlun vegna 2017 og rauntölur vegna árana 2006-2016).

E. Upplýsingar um fjölda starfsmanna í yfirstjórnum Reykjavíkurborgar fyrir 2006 til 2017 (bæði ár meðtalin).

F. Upplýsingar um kennslu* í forföllum kennara fyrir skólaárið 2016 og 2017 sundurliðað eftir skólum (*þ.e.a.s. hversu oft hefur kennsla fallið niður og hversu oft hefur forfallakennari fyllt í skarðið.)

Nánari rökstuðningur fyrir beiðninni fylgir hér á eftir.

1. Réttur til aðgangs á grundvelli 14. gr. upplýsingalaga

Til stuðnings beiðninni er vísað til 14. gr. upplýsingalaga nr. 140/2012 (hér eftir „uppl."). Samkvæmt ákvæðinu er stjórnvaldi skylt að veita aðila aðgang að fyrirliggjandi gögnum ef þau hafa að geyma upplýsingar um hann sjálfan.

Borgarráð 23.11.2017: Bókun borgarráðsfulltrúa Sjálfstæðisflokks um hleðslustöðvar fyrir rafbíla við Arnarbakka og Völvufell - R17110091

Fulltrúar Sjálfstæðisflokksins óska eftir því að skoðað verði hvort unnt sé að setja upp hleðslustöðvar fyrir rafbíla á bifreiðastæðum við umræddar fasteignir, þ.e. við Arnarbakka og Völvufell

Reykjavíkurborg
Ráðhús Reykjavíkur
101 Reykjavík

SAMGÖNGU- OG
SVEITARSTJÓRNARRÁÐUNEYTIÐ

Solvhólsgötu 7 101 Reykjavík
sími: 545 8200 postur@srn.is srn.is

Reykjavík 14. nóvember 2017
Tilv.: SRN17090063/3.3

Efni: Starfshópur um heildaryfirferð regluverks um leigubifreiðaakstur

Samgöngu- og sveitarstjórnarráðherra hefur skipað starfshóp sem hefur það hlutverk að leggja fram tillögur til ráðuneytisins um breytingar á regluverki um leigubifreiðaakstur. Markmið með starfi nefndarinnar er að regluverk um leigubifreiðaakstur hér á landi stuðli að góðu aðgengi að hagkvæmri, skilvirkri og öruggri leigubifreiðaþjónustu fyrir neytendur og að tryggt sé að regluverkið sé í fyllsta samræmi við skuldbindingar íslenska ríkisins að EES-rétti. Danmörk, Finnland og Svíþjóð hafa endurskoðað leigubílalöggjöf sína undanfarin ár og fært hana í frjálsræðisátt. Hins vegar hefur löggjöfin á Íslandi og í Noregi lengi verið óbreytt en hún er um margt svipuð í báðum ríkjum.

Starfshópurinn hefur nú tekið til starfa, en ráðgert er að hann ljúki störfum í mars 2018, með því að leggja fram tillögur til ráðuneytisins um hvort og þá hvernig breytingar er nauðsynlegt að gera á íslensku regluverki um leigubifreiðaakstur.

Forsaga málsins er sú að Eftirlitsstofnun EFTA (hér eftir *ESA*) hefur hafið frumkvæðisathugun á leigubifreiðamarkaðnum á Íslandi og mögulegum hindrunum á aðgengi að honum. Þar er aðallega verið að skoða hvort gildandi löggjöf um leigubifreiðar hér á landi kunni að vera andstæð skuldbindingum Íslands samkvæmt EES-samningnum. Einkum er til athugunar hvort löggjöfin sé andstæð svonefndum staðfesturétti skv. 31. gr. EES samningsins. Rökstutt álit ESA, sem var beint gegn Noregi, auk bréfaskrifta ESA við íslensk stjórnvöld, eru fylgiskjöl við erindi þetta.

Í rökstuddu áliti ESA til Noregs komu fram þrjár athugasemdir sem starfshópurinn er að skoða hvort megi yfirfæra á íslenska regluverkið þannig að bregðast þurfi við:

1. ESA taldi að í Noregi fælist ólögmæt takmörkun í fyrirfram ákveðnum fjölda atvinnuleyfa til leigubifreiðaaksturs.
2. ESA taldi ólögmæta takmörkun felast í því að reglur um úthlutun leyfa væru ekki fyrirsjáanlegar, hlutlægar og lausar við mismunun.
3. Að síðustu gerði ESA athugasemd við það að sumir leyfishafar væru skyldaðir til að hafa afgreiðslu á leigubifreiðastöð.

Fyrir hönd starfshópsins óska ég þess hér með góðfúslega að þú veitir starfshópnum liðsinni með sjónarmiðum þínum. Þess er óskað að Reykjavíkurborg lýsi mati sínu á áhrifum, neikvæðum sem jákvæðum, á hagrænan ábata, umferð, skipulag, umhverfi, öryggi, þjónustu eða annað sem mögulegar breytingar kynnu að hafa áhrif á.

Starfshópurinn veitir hér með frest til 4. desember 2017 til þess að koma framangreindum sjónarmiðum á framfæri með því að svara erindi þessu skriflega.

Fyrir hönd samgöngu- og sveitarstjórnarráðherra
eftir umboði

Kristín Hj.

Kristín Hjálmarsdóttir

INNANRÍKISRÁÐUNEYTIÐ

Ministry of the Interior

Sölvhólsgötu 7 101 Reykjavík Iceland
tel.: +(354) 545 9000 fax: +(354) 552 7340
postur@irr.is
irr.is

EFTA Surveillance Authority
Attn: Caspar Ebrecht
Rue Belliard 35
1040 Brussels
Belgium

Reykjavík 28. mars 2017
Reference: SRN17040662/2.13.22
Your reference: Case No. 79575

Subject: Request for information regarding access to taxi service market in Iceland

Reference is made to the letter from EFTA Surveillance Authority, dated 12 January 2017.

Below you can find the answers to the questions raised in the abovementioned letter.

1. *Please specify the criteria that are applied under Icelandic law to assess the application of a new entrant to the taxi services market. Please explain how these criteria are applied in an objective, transparent and non-discriminatory manner.*

In Article 5 of the Act on taxis, no. 134/2001 (Taxi Act) the general provisions for granting a work permit for taxi drivers are specified. According to the Article, Paragraph 3, the minister can prescribe further conditions for a work permit and substitute drivers in a regulation.

Article 6 Paragraph 1 of the Taxi Regulation no. 397/2002 states that if all conditions are met the Transport Authority provides permits in restricted zones on the basis of the applicants experience as a taxi driver. The Transport Authority may give special consideration to applications from disabled persons, who must have a recommendation from The Organisation of Disabled in Iceland and chief physician of insurance that driving a taxi suits them, and that their disabilities do not prevent them from working as a taxi driver. The disabled get appraised 260 days of work experience in the evaluation of permit applications.

Article 6 Paragraph 2 of the Taxi Regulation states that if a licensee in one restricted zone applies for a work permit in another restricted zone he shall be equal to other applicants in respect of driving time. His work permit in the zone he moves from expires when he gets the new permit. A licensee who has a license outside the restricted zone and applies for a work permit within a restricted zone gets 100 days for each year of work experience appraised. The Transport Authority is authorized to request documents confirming the applicant's work experience if justified, Article 6, Para 3.

With reference to the above provisions, in addition to the general provisions of the Taxi Act, the criteria applied is work experience as a taxi driver. The Transport Authority assesses and confirms the number of days the applicant has worked as a taxi driver based on information in the taxi

database, cf Article 2, Paragraph 1 of the Taxi Act.

2. *Please specify which factors are to be taken into account when determining the maximum number of licences in restricted districts and how these factors are applied in practice.*

Article 8 of the Taxi Act states that the minister sets in a regulation more detailed rules on the number of taxis in certain areas. In Article 4 of the Taxi Regulation the maximum number of taxis in three districts is specified; the capital city area, Akureyri and Árborg.

The number of licences has been more or less the same since 1995 when regulation no. 224/1995 put limitations on the number of vehicles. The distribution was then 570 (capital city area) - 40 (the South) - 22 (Akureyri) - 7 (Selfoss). Today in accordance with the Taxi Regulation the distribution is 560 (the capital city area and the south) – 21 (Akureyri) - 8 (Árborg). The number of licences for the capital city area and the South merged in 2005, changing from 520 + 40 to 560 licences.

There has not been a systematic review of the taxi market since the maximum numbers of licences was decided in 1995. When the number of licences was reduced in 2003, from 570 to 520 in the capital city area and from 22 to 20 in Akureyri, the review was built on the supply/demand considerations.

Since 2003 a review of the number of licences has been made in Akureyri and Árborg (+1) due to special requests thereof to the Ministry from managing directors of dispatch centrals also based on the supply/demand considerations. The reviews that have been made have thus been due to special requests at any given time but not based on a comprehensive review, cf. Article 4, Paragraph 2 of the Taxi Regulation.

3. *Please explain whether the authorities, in deciding on the licence of a new entrant to the taxi service market, enjoy any discretion and, if so, whether and how the exercise of this discretion is circumscribed by law.*

The decision on the licence of a new entrant to the taxi service market is based on the requirements set out in the Taxi Act and Taxi Regulation aforementioned.

4. *Please explain whether restrictions following from the numerical limitation of taxi licences in restricted districts are justified by legitimate objectives in the public interest, taking into account the principle of proportionality.*

With regulation no. 397/2003 the number of taxi licences were reduced from 570 to 520 in the capital city area, 22 to 20 in Akureyri, but the number remained the same (40) for the South and (7) for Selfoss. In 2005 the number of taxi licences in the capical city area and the South were merged into one zone, changing from 520 + 40 to 560 licences.

The reasoning for the reduction of licences in 2003 was amongst other things that after monitoring the development of the taxi market at the time it was clear that the demand was reducing and with the new system that took place with the regulation in 2003 it would be possible to monitor the development of supply and demand which would make it possible to take into account changes that might occur.

According to Article 4, Paragraph 2 of the Taxi Regulation the Ministry of the Interior shall before 1st September each year, for the first time in 2004, review and revise the number of permits issued in each area and take action if significant imbalance has developed between demand and supply.

Since 2003 a review of the number of licences has been made in Akureyri and Árborg (+1) due to

special requests thereof to the Ministry from managing directors of dispatch centrals. However, a comprehensive review of the number of taxi licences has not taken place. There has been no indication of a significant imbalance in supply and demand calling for a comprehensive review.

5. *Please indicate how the licensing scheme is applied in practice as regards foreign applicants compared to national applicants.*

According to the Taxi Act, cf. Article 5, all applicants for a licence as a taxi driver have to fulfill the same requirements. The same requirements apply for Icelandic nationals and for foreign nationals. However, foreign nationals must also pass a course for taxi drivers that is taught in Icelandic, cf. Article 3 of the Taxi Regulation. Interpreters have not been at the course/tests as the taxi drivers are meant to be able to carry a conversation in Icelandic. Those courses for taxi drivers are taught in "Ökuskólinn í Mjódd" on behalf of Samgöngustofa, cf. Article 6, Para 3 of the Taxi Act.

6. *Please specify whether taxi licences holders in Iceland are subject to an obligation to be affiliated with specific taxi dispatch centrals and whether licence holders as well as applicants for a new licence are free to choose the dispatch central they want to be affiliated with.*

According to Article 3 of the Taxi Act all licence holders in a restricted zone under Article 8 shall be affiliated with a taxi dispatch centre that is licensed by the Transport Authority. The driver is free to chose which dispatch centre it wants to be affiliated with as long has he is accepted by the dispatch centre itself. It is stated in Article 5, Para 3 of the Taxi Regulation that in the restricted zones the applicant shall submit evidence that he has the option of affiliation with a licensed dispatch centre.

On behalf of the Minister of Transport and Local Government

Sigurbergur Björnsson

Ásta Sóllilja Sigurbjörnsdóttir

Case handler: Caspar Ebrecht
Tel: (+32)(0)2 286 1829
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Brussels, 12 January 2017
Case No: 79575
Document No: 835163

EFTA SURVEILLANCE AUTHORITY

Icelandic Ministry of the Interior
Sölvhólsgata 7
150 Reykjavík
Iceland

Dear Sir or Madam,

Subject: Request for information regarding access to taxi service market in Iceland

The Authority hereby informs the Icelandic Government that the Internal Market Affairs Directorate ("the Directorate") of the EFTA Surveillance Authority has recently opened an own-initiative case regarding the taxi services market in Iceland, more precisely the conditions for access to that market and any possible restrictions thereto.

In this context, the Directorate kindly requests the Icelandic Government to provide it with information on the legal framework regarding the taxi market, as specified further in this letter.

1 Legal background: access to taxi services market in Iceland

To the Directorate's knowledge, the taxi services market in Iceland is regulated by the following acts:

- *Lög um leigubifreiðar*, 134/2001 (Act no 134/2001 on taxis) ("Taxi Act")
- *Reglugerð nr. 397/2003 um leigubifreiðar* (Regulation no 397/2003 on taxis) ("Taxi Regulation").

According to Article 6 of the Taxi Act, obtaining a taxi licence is a condition for providing taxi services. Taxi licences are tied to the name of the holder, who is unauthorised to sell a licence, rent it out or allocate it to a third party in any other way, cf. Article 6(2) of the Taxi Act. However, a surviving spouse is authorised to use the licence for three years after the passing of the licence holder. Provided there is no surviving spouse, the licence holder's estate may use the licence for three months after his or her passing. The licence shall be renewed every five years.

Article 5 of the Taxi Act lays down the requirements for obtaining a taxi licence. In order to obtain a taxi licence an applicant must, inter alia, have sufficient professional competence, be a registered owner of a passenger car, pursue taxi driving as a main profession, not have been sentenced to a custodial sentence or committed serious and repeated infringements of laws and regulations governing the profession and be financially competent.

Exemptions from the above requirements may be granted in those districts where the number of taxi licences is not restricted, cf. Article 8(3) of the Taxi Act. According to Article 8 of the Taxi Act, the number of taxi licences shall be restricted in certain districts based on recommendations by the Transport Authority, relevant municipal governments, local authorities and taxi driver unions.

In the Directorate's understanding, the Taxi Act does not specify how the number of available taxi licences in restricted districts shall be determined. Article 4 of the Taxi Regulation specifically provides for a maximum number of licences in each restricted district and provides some clarification on how these maximum numbers are determined. Accordingly, the relevant ministry shall review the number of licences in each restricted district and take appropriate action if there is a significant imbalance between supply and demand of licences. However, it appears that the Taxi Regulation does not specify further the factors that shall be taken into account when evaluating the need for new taxi licences.

Pursuant to Article 8 of the Taxi Act and Article 6 of the Taxi Regulation, the allocation of the available licences in restricted districts shall be based on previous experience of the applicant as a cab driver. If an applicant for a licence in a restricted district already holds a licence in another restricted district, the applicant shall be considered equal to other applicants as regards driving time. However, a driver cannot hold more than one licence at the same time, therefore, the former licence expires when the new licence is issued in the new district. If an applicant who already holds a taxi licence but from an unrestricted district applies for a licence in a restricted district, he or she will not be considered to have the same experience as a taxi driver who holds a licence in a restricted district. According to Article 6(2) of the Taxi Regulation, an applicant in that situation will be considered to hold 100 days of experience for every year of work as a taxi driver.

According to Article 3(1) of the Taxi Act, all taxis operating in restricted areas shall be connected to a taxi dispatch central, which has been authorised by the Icelandic Transport Authority. Taxi drivers in unrestricted areas are not required to be members of a taxi dispatch central.

2 Legal assessment

Based on the above, the Directorate notes that access to the taxi services market in Iceland is restricted in specific districts, by way of limiting the number of available taxi licences in these districts. The numerical restriction of licences is based on a balance of supply and demand of licences. The allocation of licences in restricted districts is based on previous experience of the applicant as a taxi driver. When evaluating an application for a taxi licence in a restricted area, applicants which have been operating in unrestricted districts are not considered to have the same experience as drivers operating in restricted districts. Furthermore, the requirement of being affiliated to a taxi dispatch central in restricted districts potentially constitutes a further restriction.

The Directorate notes that the European Courts have repeatedly held that national measures which impede or render less attractive the exercise of the freedom of establishment within the meaning of Article 49 TFEU, e.g. through the application of a prior authorisation

procedure, are to be considered restrictions to the freedom of establishment.[1] Hence, a requirement for taxi services operators to obtain an authorisation prior to commencing services may constitute a restriction on the freedom of establishment.

Furthermore, the Directorate notes that, in a case concerning a national rule limiting the number of shopping centres in Spain (Case C-400/08 *Commission v Spain*), the Court of Justice of the European Union (CJEU) has held that numeric, needs based-limitations (based on assumed demand and supply or market shares) constitute a restriction on the freedom of establishment.[2] Similarly, in the Case C-338/09 *Yellow Cab*, the Court ruled that national legislation which requires authorisation to be obtained in order to operate a tourist bus service, constitutes, in principle, a restriction on the freedom of establishment, in that it seeks to restrict the number of service providers, notwithstanding the alleged absence of discrimination on grounds of the nationality of the persons concerned.[3] In this regard, it is not decisive whether the national measures in question are indistinctly applicable as regards nationality.[4] Discriminatory national measures, including measures which do not distinguish upon nationality as such, but *de facto* have discriminatory effects (indirect discriminatory), are prohibited, cf. Article 31(2) and Article 4 EEA.[5]

It is established case law that a restriction on one of the fundamental freedoms of the EEA Agreement can be justified only if the State concerned can show that the relevant measures pursue a legitimate objective in the public interest. Such national measures must also be appropriate for securing attainment of the objective pursued (suitability), and not go beyond what is necessary in order to achieve the legitimate objectives.[6] Purely economic considerations cannot constitute an overriding reason in the public interest justifying a restriction on a fundamental freedom and may thus not serve as a justification in this regard.[7]

3 Questions

In the light of the above, and in order for the Directorate to assess the legal situation regarding access to the taxi services market in Iceland, the Icelandic Government is kindly invited to provide the following information:

1. Please specify the criteria that are applied under Icelandic law to assess the application of a new entrant to the taxi services market. Please explain how these criteria are applied in an objective, transparent and non-discriminatory manner.

2. Please specify which factors are to be taken into account when determining the maximum number of licences in restricted districts and how these factors are applied in practice.

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[1] See *inter alia* Cases E-2/06 *EFTA Surveillance Authority v. Norway*, EFTA Court Report p.164, paragraph 64; ECJ, Case C-439/99 *Trade fair*, paragraph 22; Case C-55/94 *Gebhard*, paragraph 37; Case C-255/97 *Pfeiffer* [1999] ECR I-2835; *Case* C-326/07 *Commission v. Italy*, paragraph 56-57.

[2] Case C-400/08 *Commission v Spain*, paragraph 65.

[3] Case C-338/09 *Yellow Cab Verkehrsbetrieb*, paragraph 45.

[4] Cf. Case C-400/08 *Commission v Spain*, paragraph 64; Case C-338/09 *Yellow Cab Verkehrsbetrieb*, paragraph 45.

[5] Cf. Case C-570/07 *Blanco Peréz and Chao Gómes, paragraphs 117-119.*

6 ECJ, Case C-302/97 Konle, paragraph 40; Case C-452/01 *Ospelt*, paragraphs 38-40; Case C-400/08 *Commission v. Spain*, paragraph 73; Case C-442/02 *Caixa Bank France*, paragraph 17; Case C-169/07 *Hartlauer*, paragraph 44.

[7] ECJ, Case C-400/08 *Commission v. Spain* paragraph 74; Case C-338/09 *Yellow Cab Verkehrsbetrieb*, paragraph 51; Case C-254/98 *TK-Heimdienst*, paragraphs 32-33; Case C-456/10 *ANETT*, paragraph 53.

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3. Please explain whether the authorities, in deciding on the licence of a new entrant to the taxi services market, enjoy any discretion and, if so, whether and how the exercise of this discretion is circumscribed by law.

4. Please explain whether restrictions following from the numerical limitation of taxi licences in restricted districts are justified by legitimate objectives in the public interest, taking into account the principle of proportionality.

5. Please indicate how the licensing scheme is applied in practice as regards foreign applicants compared to national applicants.

6. Please specify whether taxi licences holders in Iceland are subject to an obligation to be affiliated with specific taxi dispatch centrals and whether licence holders as well as applicants for a new licence are free to choose the dispatch central they want to be affiliated with.

Yours faithfully,

Ástríður S. Thorsteinsson

Ástríður Scheving Thorsteinsson
Deputy Director
Internal Market Affairs Directorate

SAMGÖNGU- OG
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Reykjavík November 13, 2017
Reference: SRN17040662/2.21.24
Your reference: Case No. 79575

Subject: Request for information regarding access to taxi service market in Iceland - Follow up.

Reference is made to previous correspondence between the Icelandic Government and the Authority regarding the Authority's own-initiative case regarding the taxi services market in Iceland, more precisely the conditions for access to that market and any possible restrictions thereto.

Reference is furthermore made to discussions between the Icelandic Government and the Authority at the Package Meeting in Iceland in June 2017 and the Authority's follow-up letter to that meeting. At the meeting Iceland agreed to send a further letter to the Authority, following up on the issues that were discussed at the package meeting. Initially, Iceland aimed to have sent that letter before the 1st of August. However, certain developments that will be further elaborated on in this letter, led to this follow-up letter to be delayed until this date.

Previous to the Package Meeting the Authority had sent questions to the Ministry which were then adressed at the meeting. These questions, and other questions discussed at the meeting, will be adressed in the following passages.

Numeric limitation/determination of the maximum number of taxis/licences
The Authority was interested in knowing whether in order to carry out the assessment whether there is an imbalance between supply and demand, an economic assessment is carried out. In particular whether such an assessment would also take into account criteria like the overall number of taxi journeys, the overall waiting time of taxis and the overall turnover per taxi/licence. Finally, with regard to this, whether in recent years, in the districts with numerical limitations, any existing licences have been made available to new applicants.

As discussed at the Package Meeting a supply and demand assessment in the sence that the Authority is asking has not been carried out. Had there been a demand for a substantive increase or deduction of licences such an assessment would of course have been made. The

Ministry has, up until recently, not had any indications that a change in the number of taxi licences was needed in the districts with numerical limitations.

However, due to the recent increase in tourism in Iceland, a discussion on the need for an increase in taxi licences has commenced. A request for an increase in licences in Reykjavík and the surrounding area was brought to the Ministry last spring. The Ministry carried out an assessment as to whether such an increase was needed. The Ministry based it's assessment on official information on increase in the number of inhabitants in the districts concerned as well as the number of tourists. The Ministry then looked into the travel habits of these two groups and how this increase has impacted the taxi sector. An important factor in the assessment was that at the same time there has been substantive increase in the number of rental cars in Iceland, as well as the number of seats available on tourist busses and the number of companies offering the services of driver-guides. Finally official numbers from the Icelandic Transport Authority show an increase in ownership of private cars.

The assessment included a conversation between the Ministry and the sectors affected, that is the tourism industry, taxi drivers and dispatch centrals. The Ministry also gathered information on overall number of taxi journeys, the overall waiting time of taxis and the overall turnover per taxi/licence. The outcome of the assessment was a decision of the Minister of Transport to add 20 licences in the capital area. Those licences were made available to applicants in the beginning of October, based on the work-experience of the applicants. The impact of this increase will be assessed before the allocation of licences in October 2018.

With regards to the Authority's question on whether existing licences have been made available to new applicants, licences are allocated to applicants based on their work-experience twice a year. As an example 25 licences were allocated in April 2015, 10 in October 2015, 9 in April 2016, 12 in October 2016, 10 in April 2017 and 40 in October 2017.

Barriers to market entry

The Authority asked whether, in the view of the Icelandic Government, the current system with a numerical limitation of licences, had created a significant barrier for potential new entrants to the taxi market and whether there were any indications that opening up the market for new entrants could lead to a more efficient resource exploitation that would guarantee a better supply of taxi services.

It is the view of the Icelandic Government that the current system in the taxi market does not constitute as an unjust barrier to the market.

Firstly, up until recently there has been no indication that an increase in the number of licences or opening up the market would lead to better supply of taxi services. In fact, there has not even been indication that there was any shortage of supply of taxi services. The assessment the Ministry carried out this summer did little else than support this view of the Government. The impact of the 20 new licences introduced is yet to be assessed but the Ministry is open to further increase in licences if an assessment in 2018 shows that the outcome is positive. In any case, it is the Ministry's opinion that it is necessary to introduce new licences gradually, so as to be able to assess the impact on the market and to secure the quality of the taxi services.

Secondly, even if the numerical limitation of licences was to be seen as a barrier to enter the market, the Icelandic Government sees that barrier to be justified. The Government is of the opinion that in such a small market as Iceland is it is necessary to control the number of taxi licences in order to uphold good working conditions and healthy working hours for the licence holders. The Government has considered it to be in the interest of the profession and the safety of passengers that the licence holders have taxi-driving as their main source of income and still can stay within a 40-hour working week.

The Government sees taxi-services in Iceland as an integral part of the overall public transport system and as such certain standards have to be uphold. The safety of passengers benefits from a limited number of licences in more ways than one. The Government has also found that by having a limited number of driving licences the market is somewhat self regulatory. It is very difficult, due to the nature of the profession, to control that a licence holder fulfils the requirement of a licence and follows the laws and regulations regarding the profession at all times. By limiting the number of taxi-drivers the profession itself takes on a role in the surveillance system. This is especially important when the peculiarities of the taxi-market and taxi-services are taken into account. Taxi drivers are trusted with the safety of their passengers who mainly travel alone or in small groups. Thus, it is in a way an intimate service where the passenger nonetheless has very little opportunity to influence who will provide the services.
Finally it is important to bring the Authority's attention to the fact that the numeric limitations and the obligation to be related to a dispatch central or to allocate licences on the grounds of working experience is applied equally to everyone, regardless of their nationality.

Obligations imposed on licence holders
The Authority requested information on whether any service obligations are imposed on licence holders. A licence holder has to fulfil a 40-hour pr. week service obligation.

Tourism licence
At the Package Meeting the Authority requested further information on the newly introduced Tourism licence which allows service providers in the tourism sector to engage in passenger transport against remuneration. The licence to provide such a service is obtained from the Icelandic Transport Authority given that all the conditions of such a licence are fulfilled. The tourism licence was introduced with Art. 10 in Act no. 28/2017.

" ■ ***10. gr.*** Ferðaþjónustuleyfi.
Samgöngustofu er heimilt að veita sérstakt leyfi til farþegaflutninga í ferðaþjónustu, enda þótt notaðar séu bifreiðar sem rúma fœrri farþega en níu. Skilyrði slíks leyfis er að það sé notað í tengslum við ferðaþjónustu og skal umsœkjandi hafa rekstrarleyfi annaðhvort sem ferðaskipuleggjandi eða ferðaskrifstofa auk þess að hafa almennt rekstrarleyfi skv. 4. gr. Þjónustan skal veitt samkvœmt gjaldi sem er birt eða auglýst fyrir fram, eigi skemur en sem hálfsdagsferð eða sem hluti af annarri viðurkenndri ferðaþjónustu, þ.m.t. flutningur farþega til og frá sérhœfðri afþreyingu sem er hluti af ferðaþjónustu.
Ökutæki ferðaþjónustuleyfishafa skulu vera merkt rekstraraðila.
Ráðherra er heimilt með reglugerð" að kveða nánar á um skilyrði fyrir veitingu ferðaþjónustuleyfis, svo sem um eiginleika ökutœkja, nauðsynlegan búnað og sérstakar merkingar og um undanþágur frá skilyrði um merkingar ökutœkja.„

At the Package Meeting the Authority asked why this licence was not introduced with any numerical limitations and why the same arguments did not apply to the market for tourism-licences as for the taxi-market.

The Ministry sees the tourism-licence as a licence introduced to uphold certain minimum requirements for those engaging in the transport of passengers in connection with their service provision on the market for tourism. Thus the main aim of the service is not the transport itself but rather the tourism service. The tourist market is a purely commercial market and the licences are restricted to a certain type of service. The passengers therefore have a much better opportunity to choose their service provider/transport provider than when requesting taxi services.

Furthermore, the transport provided by a tourism company in connection with other services can not be considered to be a part of the public transport system in the same way as taxis are and therefore the Govenment does not see itself as having to be influential in upholding the quality standard or the supply of those services in the same way as it does on the taxi-market.

A new task-force appointed by the Minister of Transport

The Ministry wants to inform the Authority that the Minister of Transport has appointed a task-force, which has been given the task of reviewing the current laws and regulations regarding taxi-services, to determine whether they are to been seen as to be in breach of EEA-law and if so, what adjustments need to be made in order to ensure conformity. The project plan for the task is attached.

On behalf of the Minister of Transport and Local Government

Sigurbergur Björnsson

Ásta Sóllilja Sigurbjörnsdóttir

Encl.: Project plan.

Case No: 74881
Document No: 818034
Decision No: 041/17/COL

EFTA SURVEILLANCE AUTHORITY

REASONED OPINION

delivered in accordance with Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice concerning certain provisions of Norwegian law governing access of transport operators to the market for taxi services and their compliance with Article 31(1) of the EEA

1 Background

By letter dated 6 March 2014 (Doc No 700930), the EFTA Surveillance Authority ("the Authority") informed the Norwegian Government that it had received a complaint against Norway concerning rules unduly restricting access to the taxi services market in Oslo. The complainant argues that the system currently in place in the Oslo municipality to regulate the access of new entrants to the taxi service market is in conflict with EEA law.

After having examined the complaint and having thus issued a letter of formal notice, the Authority still considers that the Norwegian national measures regulating the access to the market for the provision of taxi services constitute a restriction on the freedom of establishment. The restriction is not justified.

2 Correspondence

By letter dated 6 March 2014 (Doc No 700930), the Authority requested information from the Norwegian Government regarding the application of existing rules on the award of licences to new entrants to the taxi services market. The Norwegian Government replied by letter dated 9 April 2014 (Doc No 705245). In this reply, the Norwegian Government made reference to two letters (dated 12 March 2012, Doc No 627756, and 14 May 2012, Doc No 634780) it had sent to the Authority in a previous complaint case (Case No 69474) regarding taxi regulation in Norway. The Norwegian Government considered that the relevant legal issues in the present complaint case are largely similar to those raised in that previous complaint case. The matter was further discussed during the package meeting which took place in Oslo on 16 October 2014.

By letter dated 8 July 2015 (Doc No 759724), the Authority's Internal Market Affairs Directorate set out its preliminary view that the Norwegian national measures on access to the taxi services market constitute a restriction on the freedom of establishment and that the restriction is not justified.

Norway replied by letter dated 30 September 2015 (Doc No 774703), claiming that in the absence of EEA legislation, the provision of taxi services falls under the competence of the EEA States. Furthermore, Norway maintained the reasoning it put forward in earlier correspondences that the restrictions in question are necessary and justified by proportionate overriding requirements in the public interest. The matter was further discussed at the package meeting in Oslo on 12 November 2015. The Norwegian Government sent a further letter to the Authority on 18 January 2016 (Doc No 789047), again maintaining its reasoning that the restrictions are necessary and justified by proportionate overriding requirements in the public interest.

On 25 May 2016, the Authority issued a letter of formal notice (Doc No 791247) to Norway, establishing that by maintaining rules on access to the taxi services market which provide for a system of prior authorisation, in the form of a licence, for establishing new taxi businesses, which (1) contains a numerical limitation of licences (2) under conditions for granting new licences which are not objective, non-discriminatory and known in advance and (3) provide for an obligation for taxi licence holders to be affiliated to a dispatch centre, Norway had failed to fulfil its obligations under Article 31(1) of the EEA Agreement.

By letter dated 3 August 2016 (Doc No 814115), the Norwegian Government replied to the letter of formal notice, contesting the Authority's conclusions. In particular, the Norwegian Government stated that it considered the provision of taxi services to fall under

the competence of the EEA States and that the Authority should therefore close the case due to insufficient EEA interest, as it had done in the previous complaint case. In addition, the Norwegian Government claimed that as a result of the so-called standstill provision in article 48 EEA, it was not necessary to consider whether the Norwegian rules in question constitute restrictions on the freedom of establishment under Article 31(1) EEA. Furthermore, the Norwegian Government claimed that even if the provisions in the Norwegian taxi regulation do constitute restrictions on the freedom of establishment, they are justified on grounds of public interest.

The matter was further discussed at the package meeting in Oslo on 28 October 2016.

3 The complaint

According to the complainant, Oslo municipality has rejected, on different occasions, his application for a licence to establish a new taxi service. The complainant argues that in general, the number of available taxi licences in a district is limited and that applications by new entrants for a new licence are treated on the basis of a "needs-based" analysis, whereby the competent authority restricts the total number of available taxi licences corresponding to demand in a given district. Furthermore, the complainant claims that the Norwegian rules in question require taxi drivers to be members of a taxi dispatch centre and to pay a fee for this affiliation. In this regard, the complainant contends that there are no objective criteria for assessing whether in a given situation there is a need for new taxi licences. In addition, the complainant submits that Oslo municipality requires independent taxi businesses to become affiliated with so-called taxi dispatch centres ("*drosjesentral*") and to pay fees for this affiliation.

According to the complainant, the system in place limits the number of taxi licences and restricts new entrants, and, as a consequence, has led to disproportionally high prices for taxi services in Oslo. In the Oslo municipality, several taxi dispatch centres have been established and all taxi service operators are obliged to be affiliated with one of them. Both existing licence holders and recipients of a new licence in Oslo are free to choose their affiliation among the approved taxi dispatch centres, subject to the quantitative restriction that no dispatch centre can have more than 50% of the total available licences.

Furthermore, the complainant points to the fact that Oslo City Government, in a resolution dated 28 April 2016, decided not to increase the number of existing taxi licences in the Oslo licence district, inter alia on the grounds that existing licence holders should have an income that they can live by.[1] It is undisputed that the number of existing taxi licences in the Oslo municipality has remained unchanged since 2003 and that, all applications for taxi licences by new applicants have been rejected by the municipality.

4 Legal framework

4.1 Relevant EEA Law

No secondary EEA legislation exists laying down rules regarding the access to the market of providing taxi transport services.

[1] In a resolution dated 28 April 2016, Oslo City Government concludes as follows: "*Behovsprøving av antall drosjeløyver skal ivareta to hensyn: publikums behov for et drosjetilbud og et tilstrekkelig inntektsgrunnlag for drosjenæringen.*" (Office translation by the Authority: "The system of establishing the number of taxi licences on the basis of a needs-based analysis is intended to ensure the protection of two interests: the general public's need for a supply of taxi services and a sufficient income for the taxi industry.").

Regulation (EU) No 1071/2009 *of the European Parliament and of the Council establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC*[2] regulates the admission to the occupation of road haulage operator and road passenger transport operators.[3]

As regards Regulation (EC) No 1073/2009 *on common rules for access to the international market for coach and bus services*[4], it should be pointed out that the conditions for its application are not met in the present case, given that the regular transport services envisaged by the complainant constitute urban or suburban services which are expressly excluded from the scope of that Regulation by means of its Recital (12).

Furthermore, as regards Directive 2006/123/EC *on services in the internal market*[5], transport services, including urban transport and taxis, are expressly excluded from the scope of the Directive, pursuant to its Article 2(2)(d) and Recital (21).

4.2 Relevant national law

The complaint relates to the Norwegian national legislation on the access to the taxi services market in Oslo Municipality. The provisions in question are contained in the Norwegian Act on Professional Transport of 21 June 2002 no. 45 ("Professional Transport Act")[6] and Regulation 401/2003 ("the Professional Transport Regulation")[7].

The following rules and principles apply to new applicants seeking to obtain a professional transport licence:

- New operators of taxi services are required to obtain a taxi licence (Section 9(1) of the Professional Transport Act). In order to obtain the licence, applicants have to fulfil the requirements in Section 4(2) of the Act, which includes, *inter alia*, that they must be of good repute, have a satisfactory financial standing, and have sufficient professional competence.

- The number of taxi licences available in each licence district is limited and new licences are awarded subject to a needs test, which means that the competent authority in a licence district limits the number of taxi licences to a number corresponding to the (assumed) demand in the respective district.[8] New licences are only granted if and when an existing licence becomes available (due to death or retirement), or when a new licence is issued by the authority.

- In order to determine the right level of supply for taxi services in a licence district, the competent authority in that district must regularly carry out an analysis of the taxi industry. According to the Norwegian Government, this analysis is undertaken with the intention of finding the right correspondence between demand and supply

[2] OJ L 300, 12.11.2009, p. 51. Referred to at point 33b of Chapter II of Annex XIII to the EEA Agreement.
[3] Road passenger transport operators in this context are limited to operators of motor vehicles suitable for carrying more than nine persons, cf. Article 2(3) Regulation (EC) No 1071/2009.
[4] OJ L 300 14.11.2009, p. 88. Referred to at point 32a of Chapter II of Annex XIII to the EEA Agreement.
[5] OJ L 376, 27.12.2006, p. 36. Referred to at point 1 in Annex X to the EEA Agreement.
[6] Lov 21. juni 2002 nr. 45 om yrkestransport med motorvogn og fartøy (*yrkestransportlova*).
[7] Forskrift 26. mars 2003 nr. 401 om yrkestransport innenlands med motorvogn og fartøy (*yrkestransportforskriften*).
[8] See the Norwegian Ministry of Transport and Communication's information page on the arrangement: http://www.regjeringen.no/nb/dep/sd/tema/yrkestransport/loyver.html?id=444316

for taxi services in the licence district. Relevant factors to be taken into account in this analysis are the population in the licence district, statistics from the taxi industry with regard to earnings as well as changes in the demand for taxi services and the level of functioning of other forms of public transport services in the district.

- The criteria for the distribution and the grant of *existing* licences are listed in Sections 43 and 44 of the Professional Transport Regulation. The competent authority of each licence district decides upon the substantive conditions under which new licence(s) shall be granted/allocated.[9]

- Section 43(1)-(2) of the Professional Transport Regulation foresees that an applicant with at least two years' experience as a full-time taxi driver within the licence district will be given priority to a licence which becomes available as a consequence of the death or ceased service of a previous licence holder, provided that the taxi driver was exercising the taxi driving as a main occupation. Section 43(3) of the Professional Transport Regulation furthermore stipulates that the applicant with the longest service as a full-time taxi driver within the licence district shall be awarded the available licence, if several applicants fulfil the conditions in Section 43(1)-(2). If a licence cannot be awarded on the basis of seniority, the decision is subject to the licensing authority's discretion, cf. Section 44 of the Professional Transport Regulation.

- Available licences shall be publicly announced, cf. Section 37(3) of the Professional Transport Regulation. In the announcement, the criteria for awarding the licence shall be set out. Furthermore, the Norwegian Government has referred to Circular N-14/81 paragraph 3, according to which the relevant criteria to be taken into account in this regard are the following: previous experience as a cab driver, gained seniority, connection with the taxi profession in general and geographical conditions. If the applicant claims that there are special circumstances which speak in his favour these shall be considered.

- Pursuant to Section 46 of the Professional Transport Regulation, the competent licensing authority can decide to establish one or more taxi dispatch centres (*drosjesentraler*) within a licensing district, and to require licence holders to be affiliated with a dispatch centre.

- According to the Norwegian Government, Section 1(1)(f) of the Professional Transport Regulation implies that operators are under an obligation to contribute to a 24-hours a day supply (see Section 46 of the Professional Transport Regulation) if the licence is connected to the licence holder's place of residence. If the licence is connected to a dispatch centre, the licence holder is obliged to be available according to a shift plan of that centre. In sparsely populated areas, licences are mostly connected to the licence holder's place of residence.

5 The Authority's assessment

The Authority takes the view that the applicable Norwegian national legislation on access to the market for the provision of taxi services, as described under Section 4.2 above,

[9] See the Norwegian Ministry of Transport and Communication's information page on the arrangement: http://www.regjeringen.no/nb/dep/sd/tema/yrkestransport/loyver.html?id=444316

constitutes a restriction on the freedom of establishment under Article 31(1) EEA. In the Authority's view, the restriction is not justified.

5.1 Applicability of Article 31(1) EEA

In its letter dated 3 August 2016, as well as in its letters to the Authority dated 12 March and 14 May 2012, the Norwegian Government has made reference to Article 48(1) of the EEA Agreement and argued that as a result of that provision, it is not necessary to assess whether the Norwegian rules in question here constitute restrictions on the freedom of establishment under Article 31(1) EEA.

Article 48(1) EEA reads: "*The provisions of an EC Member State or an EFTA State, relative to transport by rail, road and inland waterway and not covered by Annex XIII, shall not be made less favourable in their direct or indirect effect on carriers of other States as compared with carriers who are nationals of that State.*"

The Norwegian Government interprets this provision in such a way that national provisions regulating road transport in existence at the time of entry into force of the EEA Agreement, and which have not later been changed in such a way as to make them less favourable to foreign operators, may continue to be in force. Furthermore, the Norwegian Government argues that the Norwegian rules in question here are based on objective and transparent, non-discriminatory criteria. Accordingly, and due to Article 48 EEA, the Norwegian Government argues that it is not necessary to consider whether the aforementioned rules constitute restrictions on the freedom of establishment under Article 31(1) EEA.

The Authority does not agree with the Norwegian Government's interpretation of Article 48(1) EEA. The corresponding rule in the TFEU, Article 92, provides for a national "standstill obligation" for Member States in the area of transport policy until the EU has passed measures foreseen under Article 91 TFEU. It prohibits Member States from applying existing national rules in the area of transport in such a way as to directly or indirectly discriminate against carriers from other Member States, unless a derogation is granted.

The CJEU has held with regard to Article 92(1) TFEU that the other basic rules of the Treaty are applicable insofar as they have not been excluded, and they can only be rendered inapplicable "as a result of an express provision in the Treaty".[10] The only express provision in the EEA Agreement rendering inapplicable basic rules in this regard is Article 38 EEA which foresees a special exemption under which the freedom to provide services in the field of transport shall be governed by the provisions of Chapter 6 of the EEA Agreement.

Furthermore, in its judgment in Case C-195/90, the CJEU ruled with regard to the standstill obligation in Article 92(1) TFEU that "*the fact that a common transport policy has not yet been achieved does not empower the Member States to adopt national legislation, even limited in time, which is incompatible with the requirements of [Article 76] (now Article 92 TFEU) of the Treaty.*"[11]

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[10] Case C-167/73, ECLI:EU:C:1974:35, *Commission v France*, paras. 21-33; See also CJEU, Case C-338/09, ECLI:EU:C:2010:814, *Yellow Cab Verkehrsbetrieb*, para. 23.

[11] Case C-195/90, ECLI:EU:C:1992:219, *Commission v Germany*, para. 33.

The Authority holds that it follows from this case-law that also during the standstill period mentioned in Article 92(1) TFEU and Article 48(1) EEA, national legislation in the field of transport must be compatible with the general rules of the Treaty and the EEA Agreement.

Accordingly, it is the view of the Authority that Article 31 EEA is directly applicable in the field of transport, e.g. as regards national measures regulating access to the market for taxi services. Article 48(1) EEA does not provide that all national measures regulating road transport in force at the time of signature of the EEA Agreement can be maintained, regardless of their restrictive or discriminatory effect.

5.2 Restriction within the meaning of Article 31(1) EEA

As the ECJ and EFTA Court have consistently held, Article 31(1) EEA precludes any national measure which, even though it is applicable without discrimination on grounds of nationality, is liable to hinder or to render less attractive the exercise by EU citizens of the freedom of establishment.[12] The concept of 'restriction' for the purposes of Article 31(1) EEA covers measures taken by an EEA State which, although applicable without distinction, affect the access to the market for undertakings from other Member States and thereby hinder intra-EEA trade.[13] Article 31 EEA also prohibits discriminatory national measures which do not distinguish upon nationality as such, but *de facto* have (indirect) discriminatory effects.[14] Furthermore, it prohibits rules which impede or render less attractive the exercise of the freedom of establishment, in particular through the application of a prior authorisation procedure.[15]

National legislation which makes the establishment of an undertaking from another Member State conditional upon the issue of prior authorisation constitutes a restriction, since it is capable of hindering the exercise by that undertaking of its freedom of establishment, by deterring or even preventing it from freely pursuing its activities through a fixed place of business.[16]

5.2.1 The restrictive measures in question

The legislation in question governs access to the taxi services market in Oslo. In so far as it contains a numerical limitation of taxi licences, establishes conditions for granting new licences which are discriminatory, not objective and not known in advance and provides for an obligation for taxi licence holders to be affiliated to a dispatch centre, this legislation constitutes a restriction of the freedom of establishment. Such a restriction exists notwithstanding the fact that the legislation in question applies irrespective of the nationality of the persons concerned.[17]

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[12] ECJ, Case C-400/08, ECLI:EU:C:2011:172, Commission v Spain, para. 64; Case C-338/09, ECLI:EU:C:2010:814, Yellow Cab Verkehrsbetrieb, para. 45.

[13] ECJ, Case C-442/02, ECLI:EU:C:2004:586, *CaixaBank France*, para. 11; Case C-518/06, ECLI:EU:C:2009:270, *Commission* v *Italy*, para. 64.

[14] Case E-14/12 *ESA v Liechtenstein*, para. 28; Case E-8/04 *ESA v Liechtenstein*, para. 16.

[15] Case C-265/12, ECLI:EU:C:2013:498, *Citroën Belux NV v Federatie voor Verzekerings- en Financiële Tussenpersonen (FvF)*, para. 35; Case C-205/99, ECLI:EU:C:2001:107, *Analir and Others*, para. 21; Case C-439/99, ECLI:EU:C:2002:14, *Commission v Italy*, para. 22.

[16] Case Joined Cases C-171/07 and C-172/07, ECLI:EU:C:2009:316, *Doc Morris NV*, para. 23; Case C-169/07, ECLI:EU:C:2009:141, *Hartlauer*, paras. 34, 35 and 38

[17] Case C-400/08, ECLI:EU:C:2011:172, *Commission v Spain*, para. 64; Case C-338/09, ECLI:EU:C:2010:814, *Yellow Cab Verkehrsbetrieb*, para. 45.

For the sake of clarification, it should be stressed from the outset that the Authority does not in the present case challenge the requirement of a prior authorisation in itself.

However, the Authority is concerned with the restriction of the freedom of establishment that follows from the numerical limitation of available taxi licences. Under the applicable legal framework referred to under Section 4.2 above, a licence for the establishment of a new taxi business will only be granted under very specific conditions that are outside the sphere of influence of the provider seeking to obtain a licence. In the view of the Authority, these conditions do not satisfy the requirements set up by the European Courts for prior authorisation schemes, namely that they constitute objective, non-discriminatory criteria which are known in advance, in such a way as to circumscribe the exercise of the national authorities' discretion, so that it is not used arbitrarily.[18]

Under the applicable rules, new applications for a taxi service operator's licence will be considered only if and when there is an available (free) licence, and priority will be given to local drivers in a district with at least two years' experience, taking into account criteria such as previous experience as a cab driver and gained seniority as a driver. Where these criteria do not apply and do not provide guidance, the competent authority shall decide, at its own discretion, which applicant should be awarded a free licence.

In the view of the Authority, this system of allocating new licences effectively favours existing taxi licence holders (incumbents) and precludes new operators seeking to obtain a taxi licence from entering the market. Criteria such as previous experience as taxi drivers and gained seniority in the respective district appear to be, *prima facie*, discriminatory, as they clearly favour existing taxi operators in a district over new entrants without there being any discernible legitimate justification.

The Authority notes that in a case concerning the application by Spanish pharmacists for new licences, the CJEU held that national rules whereby licences for the establishment of new pharmacies are to be granted in accordance with an order of priority in which precedence is given to pharmacists who have pursued their professional activities within the province, are indirectly discriminatory[19], as they, *de facto*, favour national pharmacists over those from another Member State. The same applies with regard to the Norwegian legislation on taxi licences in question. This legal framework has the potential to deter and prevent new operators from establishing a new taxi business and constitutes a restriction.

Furthermore, in those districts where there is an obligation upon taxi service providers to be connected to a taxi dispatch centre, including the corresponding requirements that follow from this affiliation, this requirement constitutes an additional restriction of the freedom of establishment.

On this basis, the Authority is of the view that the Norwegian legislation in question governing the access of transport operators to the taxi services market, constitutes a restriction of the freedom of establishment. As a result of these provisions, the number of taxi services available in a district is limited and transport operators seeking to establish themselves in a district are impeded from doing so. The Norwegian licensing scheme impedes or renders less attractive the exercise of the freedom of establishment, cf. Article 31(1) EEA.

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[18] Case C-390/99 ECLI:EU:C:2002:34, *Canal Satélite Digital v Administration General Del Estado*, para. 35 and Case C-205/99, ECLI:EU:C:2001:107, Analir and Others, para. 37.

[19] Joined Cases C-570/07 and C-571/07, ECLI:EU:C:2010:300, *José Manuel Blanco Perez and Maria del Pilar Chao Gomez*, paras. 122-125.

5.2.2 Justification

Restrictions on the freedom of establishment are lawful only if they can be justified by overriding reasons in the public interest.[20]

It is settled law that restrictions on freedom of establishment which are applicable without discrimination on grounds of nationality cannot be justified unless the restriction (1) serves overriding reasons in the public interest, (2) is suitable for securing attainment of the objective pursued and (3) does not go beyond what is necessary for attaining that objective.[21]

In this regard, it should be recalled that it is for the national authorities to demonstrate that a restrictive measure is appropriate for securing the attainment of the objective relied upon and does not go beyond what is necessary to attain it. The reasons which may be invoked by a State in order to justify a restriction must thus be accompanied by an analysis of the appropriateness and proportionality of the measure adopted by that State and by specific evidence substantiating its arguments.[22]

In its reply to the letter of formal notice dated 3 August 2016, the Norwegian Government has questioned that the burden of proof to demonstrate that a restrictive measure is appropriate and necessary lies with the Member State and has cited case-law where, in the view of the Norwegian Government, the European Courts have accepted assumptions by the Member States and have placed the burden of proof on the European Commission. In particular, the Norwegian Government cites the European Court of Justice Cases C-171/07 and C-172/07 (*Apothekerkammer*), C-110/05 (*Commission vs Italy*) and the EFTA Court Case E-16/10 (*Philip Morris Norway AS*) to emphasise its submission.

The Authority does not concur and notes that in Case E-16/10 (*Philip Morris Norway AS*), the EFTA Court, in line with settled case-law of the European Courts, stated that it is for the EEA States to decide what degree of protection they wish to afford to public health and the way in which that protection is achieved and that the EEA States have a certain margin of discretion in this regard.[23] However, the EFTA Court also stressed that notwithstanding this discretion, national rules restricting the free movement of goods, or are capable of doing so, can be properly justified only if they are appropriate for securing the attainment of the objective in question and do not go beyond what is necessary in order to attain it.[24] Furthermore, the EFTA Court stressed that it is for the national authorities to demonstrate that their rules are necessary in order to achieve the declared purpose and that that objective could not be achieved by less extensive prohibitions or restrictions.[25]

In the Authority's view, a different interpretation does not follow either from the judgment by the European Court of Justice in case C-110/05. In this judgment, the Court confirmed

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[20] Case E-9/11, *ESA v Norway*, para. 83; Case E-15/11, *Arcade Drilling AS*, para. 82; Case E-3/06 *Ladbrokes*, para. 41; Case E-8/04, *ESA* v *Liechtenstein*, para. 23.

[21] Case C-400/08, ECLI:EU:C:2011:172, *Commission v Spain, para. 73;* Case C-55/94, ECLI:EU:C:1995:411, *Gebhard*, para. 37; EFTA Court, Case E-*3/05 ESA v Norway, para. 57.*

[22] Cf. EFTA Court, Case E-12/10 *ESA v Iceland*, para. 57; ECJ, Case C-8/02, ECLI:EU:C:2004:161, *Leichtle*, para. 45; Case C-73/08, ECLI:EU:C:2010:181, *Bressol and Others*, para. 71; Case C-110/05, ECLI:EU:C:2009:66, *Commission* v *Italy*, para. 66; Case C-400/08, ECLI:EU:C:2011:172, *Commission v. Spain* para. 75.

[23] Case E-16/10, *Philip Morris Norway AS*, para. 77.

[24] Case E-16/10, *Philip Morris Norway AS*, para. 81.

[25] Case E-16/10, *Philip Morris Norway AS*, para. 85.

the principle that a Member State invoking a requirement as justification for the hindrance to free movement of goods has the burden to demonstrate that its rules are appropriate and necessary to attain the legitimate objective pursued.[26] The Court added that this burden of proof cannot be so extensive as to require the Member State to prove, positively, that no other conceivable measure could enable that objective to be attained under the same conditions.[27] Thus, also in this judgment the Court of Justice confirmed the principle that the burden of proof for the appropriateness and proportionality of a restriction lies with the Member State. Hence, the Authority disagrees with the Norwegian Government's assessment that it follows from the judgment in Case C-110/05 that the burden of proof is placed on the European Commission. In addition, in the current case the Authority is not requiring Norway to prove that no other conceivable requirements could enable the objectives to be attained.

5.2.2.1 Overriding reasons in the public interest

(a) Arguments brought forward by the Norwegian Government

The Norwegian Government argues that the existing Norwegian rules on access to the taxi services, and in particular the needs-based licensing scheme, are necessary in order to ensure a satisfactory service justified by legitimate objectives in the public interest. The main purpose of the rules, according to the Norwegian Government, is to ensure a satisfactory supply of taxi services at all times. More precisely, it claims that it is necessary to restrict licences and to award them on the basis of a needs-based test in order to oblige operators to be available and to contribute to the provision of taxi services 24 hours a day. The Norwegian Government submits that without a limitation and a needs-based test, the legal obligation for taxi service providers to be available 24 hours a day (where a licence is connected to the place of residence rather than to a dispatch centre) could not be sustained, and that in consequence the taxi services in sparsely populated areas would become unsatisfactory and would most likely disappear at certain times of the day.

Furthermore, the Norwegian Government claims that the limitation of taxi licences also seeks to meet the objective of providing a secure and foreseeable income for taxi service operators, and helps to ensure a steady recruitment to the profession. In its letter dated 18 January 2016, the Norwegian Government explained that these considerations are not policy objectives in themselves justifying the restriction, but they are necessary means to achieve a satisfactory supply of transport services. In the view of the Norwegian Government, without ensuring a secure and foreseeable income for taxi service operators as well as a steady recruitment to the profession, the main objective of providing the public with a satisfactory supply of taxi services at all times could not be achieved.

With regard to the restrictive measure conferring competence upon the competent authorities to oblige licence holders to be affiliated with a dispatch centre and to pay a fee for it, the Norwegian Government claims that this requirement is necessary to pursue the interests of consumers and security objectives. In this regard, the Norwegian Government submits that the requirement is in the interest of customers and ensures "market clarity", as it ensures that taxi customers only have to dial one single telephone number when ordering a taxi and they that they have a contact point for assistance in cases of unexpected or uncomfortable incidents. Furthermore the system increases transport safety, as it enables the dispatch centres to track the location of a taxi at a given time and thereby also serves a preventive effect, in that it deters taxi drivers from committing acts of abuse, theft or violence.

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[26] Case C-110/05, ECLI:EU:C:2009:66, *Commission v Italy, para. 66.*

[27] Ibidem.

(b) The Authority's assessment

The Authority has assessed the arguments that the Norwegian Government has brought forward to demonstrate that the restrictions inherent in the contested legislation governing taxi services are justified by overriding requirements relating to the public interest.

As regards the measures limiting the number of taxi licences, thus limiting access to establishment as a taxi operator, the Authority recalls that grounds of purely economic nature cannot constitute an overriding reason in the public interest justifying a restriction on a fundamental freedom and may thus not serve as a justification in this regard.[28]

As regards the argument that the limitation of available taxi licences serves to pursue the achievement of a right correspondence between supply and demand, the Authority takes the view that this does not constitute an overriding reason in the public interest capable of justifying the restriction of the freedom of establishment. This is an objective that is undoubtedly purely economic in nature. The same applies to the argument that the numerical limitation of licences shall serve to guarantee taxi service operators a foreseeable income and ensure a steady recruitment to the profession. These objectives are linked to the financial and professional interests of specific economic operators and therefore do not serve a public interest. The above considerations can therefore not constitute overriding reasons in the public interest.[29]

In contrast, the Authority acknowledges that a limitation of licences can, under certain circumstances, be necessary to guarantee a satisfactory, round-the-clock supply in rural areas where taxis are often an indispensable means of transport and thereby serve a public interest. This reasoning relates to safeguarding a necessary standard and availability of passenger transport services for the inhabitants of a district and is, as such, not purely economic in nature. Ensuring that taxi transport services are permanently available serves the protection of consumers which in itself can constitute an overriding requirement justifying a restriction of the freedom of establishment.[30] Therefore, the Authority acknowledges that the objective of guaranteeing a satisfactory, permanent supply of taxi transport services in the interest of consumers can be accepted as a requirement in the public interest in principle capable of justifying the restriction that follows from the numerical limitation of licences.

In addition, as regards the requirement to be affiliated with a dispatch centre, the Authority acknowledges that grounds of transport safety can be relied upon as a justification for a restriction of the freedom of establishment. The Norwegian Government argues that the connection to the dispatch centre enables the centre to track the location of a given taxi at a given time and thereby also serves a preventive effect as it deters taxi drivers from committing acts of abuse, theft or violence. The Authority acknowledges that

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[28] Case C-400/08, ECLI:EU:C:2011:172, *Commission v. Spain* para. 74; Case C-338/09, ECLI:EU:C:2010:814, *Yellow Cab Verkehrsbetrieb*, para. 51; Case C-254/98, ECLI:EU:C:2000:12, *TK-Heimdienst*, paras. 32-33; Case C-456/10, ECLI:EU:C:2012:241, *ANETT*, para. 53; Case C-109/04, ECLI:EU:C:2005:187, *Kranemann*, para. 34.

[29] See, in this context, Case C-400/08, ECLI:EU:C:2011:172, *Commission v. Spain* paras. 95-98, in which the Court held, in connection with a decision to grant a licence for a new retail establishment, that to take account, for the purposes of granting such a licence, of the existence of retail facilities in the area concerned and the impact of a new establishment on the commercial structure of that area concerns the impact on existing traders and the market structure, and therefore does not relate to consumer protection.

[30] Case C-260/04, ECLI:EU:C:2007:508, *Commission v Italy*, para. 27; Case C-393/05, ECLI:EU:C:2007:722, *Commission v Austria*, para. 52; Case C-458/08, ECLI:EU:C:2010:692, *Commission v Portugal*, para. 89.

grounds of transport safety can in principle be relied upon as a justification for a restriction of the freedom of establishment.

5.2.2.2 Suitability

While the objectives of guaranteeing a satisfactory, permanent supply of taxi transport services in the interest of consumers and ensuring transport safety are capable of constituting overriding reasons in the public interest justifying a restriction, the Authority has doubts whether the national rules referred to above are suitable in order to attain these objectives. The Authority recalls in this regard that national legislation is appropriate for ensuring attainment of the objective pursued only if it genuinely reflects a concern to attain it in a consistent and systematic manner.[31]

The Authority considers that the numerical limitation of licences as well as the requirement to be affiliated with a taxi centre (or the obligation to offer 24 hours a day taxi service where the licence is connected to the licence holder's place of residence, respectively) can be suitable for attaining the former objective that the Norwegian Government has invoked, as these requirements can in fact serve to ensure the existence of a satisfactory supply of taxi services, in certain sparsely populated areas where it is not commercially viable to offer round the clock taxi services.

However, the Authority takes the view that with regard to the numerical limitation of the available taxi licences, the Norwegian Government's reasoning does not hold, in particular when considering the provision of taxi services in densely populated licence districts such as Oslo where different means of transport are available at all times. In these areas, it is rather likely that limiting the number of available licences for each taxi district on the basis of a needs-based test will have the result of limiting supply, as new operators will be precluded from entering the market. Therefore, insofar as densely populated districts are concerned, the Authority takes the view that the Norwegian Government has not shown that the numerical limitation of licences is suitable to achieve the objective of guaranteeing a satisfactory, permanent supply of taxi transport services.

The Authority notes that its view appears to be in line with the conclusions drawn by the Norwegian Competition Authority (*Konkurransetilsynet*) in a recently published report on the Norwegian taxi market.[32] In that report, *Konkurransetilsynet* held that the needs-based licensing system constitutes the most significant entry barrier in the taxi market, and that it leads to an inefficient exploitation of resources and limits labour productivity.[33] Furthermore, the Authority refers to the fact that the so-called Sharing Economy Committee which was recently set up by the Norwegian Government, in its report of 6 February 2017[34], proposed to the Government to repeal the licensing requirement for taxis in Norway.[35]

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[31] Case C-169/07, ECLI:EU:C:2009:141, *Hartlauer*, para 55.

[32] Konkurransetilsynet, Rapport: Et drosjemarked for fremtiden, published on 20 March 2015 (www.konkurransetilsynet.no/globalassets/filer/publikasjoner/rapporter/rapport_drosjemarked-for-fremtiden.pdf).

[33] Ibid, page 33: "*Den vesentligste etableringsbarrieren er knyttet til det behovsbaserte løyvesystemet. Konkurransetilsynet er av den oppfatning at behovsprøvingen bør fjernes i hele landet. Behovsprøvingen begrenser tilbudet og ikke minst nødvendig fleksibilitet på tilbudssiden. Ut over behovsprøvingen er det særlig kravet om at drosjekjøring skal være hovederverv som fører til lite effektiv utnytting av ressurser, og begrenser arbeidskraftproduktiviteten.*"

[34] Cf. Delingsøkonomiutvalget: Delingsøkonomien – muligheter og utfordringer Utredning fra utvalg oppnevnt ved kongelig resolusjon 4. mars 2016. Avgitt til Finansdepartementet 6. februar 2017., Norges offentlige utredninger 2017:4

It is the Authority's view that allowing new entrants to the market would, incidentally, also be likely to lead to a reduction of taxi fares, thereby benefitting customers by satisfying their need for affordable means of transport. There are evidently indicators showing that the current system of regulating access to the taxi services market have had adverse effects for customers, as taxi prices in Oslo have seen a rather steep increase in recent years[36], while at the same time the demand for taxis has decreased significantly. According to information published by the Norwegian Statistics Bureau *Statistisk sentralbyrå* (SSB), between 2004 and 2015, taxi fares have increased almost three times more than the level of general inflation[37] (while consumer prices rose by 25 per cent, taxi fares increased by over 65 per cent during that period). SSB also found that the overall number of taxi journeys has decreased by 10 per cent between 2008 and 2015, while at the same time the overall turnover for the taxi industry has increased by nearly 20 per cent. SSB concluded from these numbers that the taxi industry offsets the decrease in passenger numbers by increasing prices which in turn leads to a further decrease in passenger numbers. The Authority notes that this development seems to point to the absence of a right correspondence of supply and demand.

Furthermore, the Norwegian Government has failed to demonstrate, in its submission, which methodology is used to find the "right correspondence between supply and demand" (as part of the analysis underlying the needs test) in Oslo municipality and other large, densely populated municipalities in Norway. Therefore, the Authority concludes that the Norwegian Government has not demonstrated that restricting the number of available licences is an appropriate measure to guarantee a satisfactory (with 24 hours daily availability) supply in the public interest.

Finally, as regards the objective of ensuring transport safety supposedly pursued by imposing the requirement to be affiliated with a dispatch centre, it appears inconsistent that this affiliation requirement is not systematically imposed on all drivers in all districts. In some districts, dispatch centres are established and the affiliation requirement exists, whereas in other districts, the licence is linked to the drivers' residence and no such requirement exists. As a consequence, the Authority concludes that the national legislation at issue does not pursue the stated objective of ensuring transport safety in a consistent and systematic manner and therefore cannot be considered appropriate for attaining the objective.

5.2.2.3 Necessity

In addition to being suitable, any restriction must not go beyond what is necessary in order to attain its overriding public interest objective.

In the Authority's view, the Norwegian Government has not put forward any arguments to support its view that the limitation of the number of licences is necessary in order to

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(https://www.regjeringen.no/contentassets/1b21cafea73c4b45b63850bd83ba4fb4/no/pdfs/nou201720170004000dddpdfs.pdf).

[35] Ibid, page 108: "*Flertallet mener etter dette at behovsprøvingen bør oppheves.*"

[36] Pursuant to a newspaper article published on 24 November 2014 (http://www.nettavisen.no/na24/elleville-taxipriser---76-prosent-priskning-pa-7-ar/8512709.html), the average taxi fare per kilometer has risen from 16.56 NOK to 29.15 NOK between 2007 and 2014, thus an increase of 76 per cent. These figures are based on data collected by the Norwegian Statistics Bureau (*Statistisk sentralbyrå*, SSB).

[37] http://ssb.no/transport-og-reiseliv/artikler-og-publikasjoner/faerre-drosjekundar-gjev-hogare-prisar

ensure a satisfactory supply of taxi services. For the following reasons, the Authority considers that the rules go beyond what is strictly necessary:

- Pursuant to the Norwegian rules in question, the needs-based test and the numerical limitation is applied in such a way that new applicants shall not be granted a new licence where the demand for taxi services in a district can be satisfied by the existing number of taxi operators. The Authority recalls in this context that the fact that a particular number of licences is considered on the basis of a specific assessment to be 'sufficient' for a particular territory cannot in any event of itself justify the obstacles to the freedom of establishment and the freedom to provide services brought about by that limitation.[38] In the view of the Authority, it is moreover highly unlikely that in such a situation, the entry of new operators to the market will immediately result in overcapacity and in a situation where the needs of customers will no longer be satisfied in the same way. Rather, it can reasonably expected that there will be a margin within which new entrants to the taxi market can be admitted, despite the fact that the existing demand can be met by the existing number of operators. The argument that without a needs-based test and a numerical limitation there would be too many taxi operators which would in turn lead to taxi services of lower quality must be rejected, as the Norwegian Government has not presented any evidence to support this claim.

- A less restrictive rule than a needs-based test is possible and feasible. A limitation on numbers would only seem justifiable very exceptionally on the basis of clear evidence that the admission of new entrants would put the functioning of the local taxi services market in danger. Rejecting an application for a new licence should only ever be possible if, under the specific circumstances in the respective district, there are indications that allowing new entrants into the market would seriously threaten to destabilise the local taxi services market and lead to a generalised market failure.

- As has already been explained under Section 5.2.1 above, the criteria that are applied in Norway for the decision to award a new licence, i.e. to give priority to applicants that have been working the longest, and for a minimum at least two years within the licence district (seniority rule), are discriminatory. What is more, this seniority rule goes beyond what is necessary to achieve the pursued objectives. The rule is in itself very restrictive as it will, in most situations, make it practically impossible for new operators from outside a district to establish a new business in the district. During the package meeting in Oslo in October 2014, the Norwegian Government representatives expressed their view that this rule contributes to ensuring a steady recruitment to the professions of taxi driver and taxi operator, as it makes the professions more attractive, by giving an incentive for entering a business which may be perceived by some as not having the highest status. The Authority notes that there is no evidence to support the claim that recruitment to the taxi profession is improved by the seniority rule. Rather, it would seem that opening up the market for new entrants would allow for an increase of recruits to the profession. The seemingly uncircumscribed residual discretion on the part of the competent authority, in cases where experience and seniority of the applicants for a licence do not permit to identify the candidate to whom the licence should be awarded, also appears in conflict with the requirements of EEA law concerning the transparency and impartiality. The rules in question must be clear, precise and

[38] Case C-338/04, EU:C:2007:133, *Placanica*, para 51.

predictable as regards their effects and circumscribe the competent authority's discretion by reference to objective criteria.[39]

Furthermore, the Authority considers that the obligation for operators to be connected to a taxi dispatch centre and to comply with the corresponding requirements, such as being part of a shift plan, appears to go beyond what is necessary in order to achieve the legitimate objectives. The Norwegian Government's arguments in favour of the affiliation to a dispatch centre, such as being able to hold track of drivers and taxis in the interest of security, could be achieved in the same way with less restrictive measures, such as the requirement for taxi operators to make use of technological equipment like GPS-tracking or electronic means of identifying a taxi in connection with payment.

6 Conclusion

FOR THESE REASONS,

THE EFTA SURVEILLANCE AUTHORITY,

pursuant to the first paragraph of Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, and after having given Norway the opportunity of submitting its observations,

HEREBY DELIVERS THE FOLLOWING REASONED OPINION

that, by maintaining rules on access to the taxi services market which provide for a system of prior authorisation, in the form of a licence, for establishing new taxi businesses, which (1) contains a numerical limitation of licences (2) under conditions for granting new licences which are not objective, non-discriminatory and known in advance and (3) provide for an obligation for taxi licence holders to be affiliated to a dispatch centre, Norway has failed to fulfil its obligations under Article 31(1) of the EEA Agreement.

Pursuant to the second paragraph of Article 31 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, the EFTA Surveillance Authority requires Norway to take the measures necessary to comply with this reasoned opinion within *two months* of its receipt.

Done at Brussels, 22 February 2017

For the EFTA Surveillance Authority

Helga Jónsdóttir
College Member

Carsten Zatschler
Director

[39] Case C-72/10, EU:C:2012:80, *Costa and Cifone*, paras 72-74 and case law cited.

EFTA SURVEILLANCE AUTHORITY

This document has been electronically signed by Helga Jonsdottir, Carsten Zatschler on 22/02/2017