

MEMO



To: EFTA Surveillance Authority

From: Catharina Bartnes and Frederik Nordby

Lawyer responsible: Catharina Bartnes

Our ref.: 306020-023\2010040\v1\frno

Date: Oslo, 5 June 2018

CASE SUBJECT: Questions to the EFTA Surveillance Authority regarding GBER

1 INTRODUCTION AND BACKGROUND

Sogndal Airport (“the airport”) is located in Sogn og Fjordane county. The airport is owned and operated by Avinor AS. The only airline providing scheduled services at the airport is Widerøe. The main destinations to and from the airport are Oslo and Bergen. Some of the routes to and from these destinations have stop over on Sandane, Ørsta/Volda and/or Florø.

Currently, there is no hangar at the airport. During the winter, when there is a lot of snow and snow often affects the air traffic, a hangar is necessary in order to have a night-stationed aircraft on the airport. A night-stationed aircraft would greatly increase the regularity of morning flights. Public and private interests have therefore taken the initiative to construct a hangar on the airport.

The hangar will be constructed and owned by a limited liability company that will be formed once the aid has been granted. This company will be owned by Sogndal municipality (2/3) and Sogn Næring AS (1/3), a limited liability company owned by public as well as private interests. The owner will rent the hangar to the airline operating flights to and from the airport.

The hangar will be financed by Sogn og Fjordane County (“the County”), several municipalities in the region, including Sogndal municipality, and possibly also by some private funding. Kluge represents the County in the matter.

The planned aid raises several questions on the understanding of the General Block Exemption Regulation (“GBER”). For the sake of clarity and to ensure compliance with the GBER, the County would greatly appreciate it if the Authority could answer the questions set out in the following.

2 THE COUNTY’S UNDERSTANDING OF GBER SECTION 14 AND THE DEFINITIONS FOUND IN ARTICLE 2

2.1 “Airport”

An “airport” is defined in the GBER Article 2 paragraph 146 as *“an entity or group of entities performing the economic activity of providing airport services to airlines”*. Furthermore, in paragraph 147 airport services are defined as *“services provided to airlines by an airport or any of its subsidiaries, to ensure the handling of aircraft, from landing to take-off, and of passengers and freight, so as to enable airlines to provide air*



transport services, including the provision of ground handling services and the provision of centralised ground handling infrastructure”.

Based on these definitions, it is the County’s view that the company should be considered as an “*airport*” within the meaning of the GBER. The company will provide services to the airlines, i.e. the storage of an aircraft over-night. However, as the company is not an airport in the traditional sense, the County would appreciate the Authority’s view on this interpretation.

2.2 “Airport infrastructure”

“Airport infrastructure” is defined in the GBER Article 2 paragraph 144 as “infrastructure and equipment for the provision of airport services by the airport to airlines and the various service providers, including runways, terminals, aprons, taxiways, centralised ground handling infrastructure and any other facilities that directly support the airport services, excluding infrastructure and equipment which is primarily necessary for pursuing non-aeronautical activities”.

Hangars are not listed in the definition as infrastructure that constitutes airport infrastructure. However, it is the County’s opinion that a hangar is a facility *“that directly support the airport services”*. In this case, the hangar is necessary for ensuring the regularity of flights to and from the airport, and thus directly supports the airport services. However, as hangars are not listed in the definition, the County would appreciate the Authority’s view on this interpretation.

3 THE COUNTY’S UNDERSTANDING OF GBER SECTION 1 ARTICLE 14 AND SECTION 13 ARTICLE 56

According to Section 1 Article 13 – Scope of regional aid, the section does not apply to *“the transport sector as well as the related infrastructure”*. If the hangar is not considered as *“airport infrastructure”*, it is the County Authority’s view that the aid to the construction of the hangar neither should be considered as aid to the transport sector nor to the related infrastructure. If this is the case, the County would assume that the aid could be eligible under both Article 14 (regional aid) and Article 56 (aid for local infrastructures). The County would appreciate if the Authority could give its view on whether the County’s interpretation is correct.
