



## SPEECH

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### **Hearing of the Committee on the Internal Market and Consumer Protection on Internal Market in the EEA and Switzerland: Current state of Play and Future Challenges.**

*Speech by Trine Radmann, Director of the Confederation of Norwegian Enterprise's Brussels Office.*

#### ***The Implementation of the Services Directive in Norway***

Dear Ladies and Gentlemen, Members of the European Parliament

Thank you for giving me the opportunity to present our views on the "Implementation of the Services Directive: An EEA EFTA Perspective".

The Confederation of Norwegian Enterprise (NHO) welcomes the European Parliament's initiative to assess the implementation of Internal Market directives in the EEA countries and Switzerland. The EEA Agreement is vital to Norwegian business, and it is a key driver for economic growth. For more than 15 years the EEA Agreement has ensured Norway's participation in the Internal Market, and the agreement has proven to be remarkably well-designed and able to cope with an EU in constant development.

According to the latest Internal Market Scoreboard from the EFTA Surveillance Authority (ESA), 1719 Internal Market directives have been incorporated into the EEA Agreement by 31 October 2009. Norway has generally performed above average in relation to the Internal Market Scoreboard. By and large, the transposition of directives is timely and there are few infringement cases due to lack of conformity with or incorrect application of Internal Market rules. However, the latest Scoreboard shows that the number of infringement proceedings against Norway increased by 33% since the last Scoreboard. This is regrettable.

Nevertheless, as the main representative of Norwegian business, we constantly call for a stronger commitment to the free movement of goods, services, capital and people within the single market, beyond meeting the minimum requirements of directives and regulations. The implementation of EEA relevant regulations, directives and soft law should be based on the pursuit of a well-functioning Internal Market. Minimal implementation as well as supplementary national specific requirements maintain or create unnecessary burdens for businesses and citizens.

#### **The Services Directive**

Despite the free movement of services being at the core of the EEA Agreement, the adoption of the Services Directive by the EU triggered an extensive debate in Norway. Still, the formal implementation of the Services Directive into national legislation took place within the time frame. Norway adopted 19 June 2009, a

horizontal act as framework legislation for all services covered by the directive. This act became legally binding on 28 December 2009, i.e. at the same date as the directive came into force in the EU Member States.

The screening process in Norway resulted in a few changes. So far only four changes have been made in existing sector specific legislation, and only one authorisation scheme has been lifted.

Norway is also taking part in the ongoing Commission evaluation process on national requirements related to national sector specific legislation. In line with article 15 of the Services Directive, a report, based on the requirements that have been removed and requirements that have been considered as being in coherence with the Directives, has been submitted by the Norwegian authorities to the Commission.

For Norway, 73 authorisations schemes have been included in the report and will be evaluated. These obligations cover a wide spectre of services related to various authorities, be it sector specific, national, regional or local. Compared to some member states, 73 reported authorisation schemes is a relatively modest number. In NHO's view, the most important outcome of these procedures is the increased awareness among relevant authorities at all levels about the requirements of the directive.

### **The Point of Single Contact**

While the formal implementation of the directive took place within the timeframe it does not mean that the administrative transposition of the directive has been met. The website of a basic ("first generation") Point of Single Contact, the Altinn portal, has been set up. The Norwegian Point of Single Contact, which is linked to the Commission's portal (EUGO), provides information on some applicable requirements, such as authorisations, and in some cases allow for the electronic completion of procedures.

The current first generation portal is far from satisfactory. It is stated on the site that it "will become a single contact point where SMEs easily can obtain information, submit applications and collect decisions or other replies without having to deal with a multitude of authorities at different administrative levels." However, at the moment it does not deliver on its intended purpose. So far only overall information is available in English, and it is not very easy to navigate as information in English is scattered in an unsystematic way.

Furthermore, only some forms are available in English and can be completed and submitted electronically, as required by the Services Directive. At this point in time the contact point to a very limited degree facilitates the access to the Norwegian market by foreign service providers. The use of electronic procedures is vital to ensure market access, for SMEs in particular.

There are ongoing efforts to make the Point of Single Contact the tool it is supposed to be according to the directive. The second generation Altinn portal is intended to

be completed in 2011. NHO follows the implementation process of the Services Directive closely. We believe that there should be an explicit deadline for the completion of Altinn and that the current goal is not ambitious enough.

### **Freedom of Establishment**

The Services Directive entails that Norwegian requirements concerning authorisation schemes should be supplementary to what a services provider already possesses, they should not be geographically constrained, ambivalent or seem deterrent or complicated. Furthermore, a rejection of a permit application should be reasoned and possibilities of appeal should be stated. In the Norwegian framework law and regulation there are no provisions that call for requirements to be clear, objective and publicly available before the application process.

According to the directive's article 13 a service provider should automatically receive authorisation if the deadline, which should be "reasonable", for a reply is exceeded. This is also stated in Article 11 of the Norwegian framework act. This is, however, accompanied by the wording "unless otherwise stated by law or regulation." The result is that two Norwegian acts (the regulations on real estate agents and on accounting services), which have been amended to correspond with the Services Directive, states that the provision in the framework law, Article 11, does not apply to these two types of services. NHO fears that this addition to sector specific laws may become the rule and that consequently the article 13 will not be practiced as "special law" determines otherwise.

### **Free Movement of Services within the EEA**

The Services Directive articulates the right to provide services within the Internal Market and requires national governments to guarantee access to its markets. In the implementation in Norway this right is established in the framework act, but the government's obligation to ensure market access is not stated in the text. Also, while the Services Directive lists prohibited national requirements, the Norwegian act lists requirements which the authorities still can maintain, in addition to listing the exempted services.

The Services Directive also comprises various provisions on the cooperation between governments. There are corresponding provisions concerning mutual assistance and exchange of information and knowledge in the Norwegian law and regulation. However, the provision on the exchange of officials is not included. NHO believe that such an exchange programme would be beneficial for all parties, as it would facilitate exchange of information and experience, improve and create networks and cross-border contact. We also believe that such a scheme would increase mutual trust and confidence in other systems, and lead to an overall improvement in public administration in this area. This will also help to spread knowledge of the EEA Agreement.

### **To Conclude**

We believe Norway has the economic, technical and human resources to perform better and ensure high quality and robust transposition of the directive. Therefore we

question the level of commitment from the government's side. The national authorities should be more ambitious in terms of achieving the best possible implementation of directives, including the Services Directive. We believe especially that the Point of Single Contact should be up to standard soon and within a fixed deadline.

The above-mentioned problems related to a lengthy process to ensure compliance with a directive is less articulate than the constant challenges relating to the implementation of EU regulations, such as the Goods Package. Also in that context we believe there is a great potential for improvement.

We believe the EU and the national governments should make further efforts to communicate and inform companies, especially SMEs, about the advantages and opportunities that the Services Directive will create if properly implemented.

One peculiarity Norway has as an EEA EFTA state, compared to other members of the Internal Market, is that the political discussions on EU legislation take place long after the decision has been made in the EU. This was also the case of the Services Directive. This is related to the fact that our Parliament is not informed at the same time as other national parliaments in the Internal Market. While Commission consultation documents are forwarded directly by the Commission to the national parliaments upon publication, the EEA EFTA states are not in the loop. Draft legislative acts are also forwarded to national parliaments directly by the Commission, at the same time as to the European Parliament and the Council, but not to the three EEA EFTA states' parliaments. We would therefore encourage the European Parliament to support our view that the parliaments of Norway and the other EEA EFTA states should be informed at the same stage as the member states' parliaments. That would enable the EEA EFTA countries to participate in the discussions in the EU at an early stage, and avoid that debates continue long after they are finished in the EU. This would facilitate and speed up the implementation of Internal Market legislation in Norway and potentially remove temporary barriers within the Internal Market.

Finally, we want to reiterate our appreciation of the attention given to the EEA Agreement and its implications by the European Parliament, and in particular the Internal Market Committee. Lack of knowledge of the agreement in EU member states can potentially create barriers for citizens and businesses from EEA EFTA countries. Similarly, in order to guarantee that EU citizens and businesses reap the full benefits of the Internal Market, awareness about its extension also to Norway, Iceland and Liechtenstein is needed. EU institutions play an important role in contributing to a greater understanding of the Internal Market and its benefits. Therefore, strengthening the awareness about the EEA Agreement within EU institutions is key in the removal of barriers rooted in lack of knowledge and awareness of the agreement, and thus Norway's membership in the Internal Market.

Thank you for your attention