ESA | EFTA Surveillance Authority

Brussels, 19 December 2023
Case No: 91444
Document No: 1423637
Decision No 193/23/COL

Ministry of Trade, Industry and Fisheries
PO Box 8090 Dep
0032 Oslo
Norway

Subject: Relocation of Bodø airport

1 Summary

(1) The EFTA Surveillance Authority ("ESA") wishes to inform Norway that, having assessed the notified investment aid in favour of Avinor AS ("Avinor") for the relocation of Bodø airport ("the measure") in the Bodø Municipality ("Bodø"), Norway, ESA considers that the measure constitutes State aid within the meaning of Article 61(1) of the EEA Agreement and decides not to raise objections to the measure,[1] as it is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(c). ESA has based its decision on the following considerations.

2 Procedure

(2) The Norwegian authorities notified the measure on 13 December 2023.[2]

3 Description of the measure

3.1 Background

3.1.1 Introduction

(3) The notification concerns investment aid to Avinor. The investment aid will be used for the construction of a new airport in Bodø ("the new airport"), which will also imply a relocation of the existing airport in Bodø.

(4) The purpose of the measure is to put Avinor in a position where it can construct and operate a new airport, allowing for the relocation of the existing airport in Bodø. This relocation will free up the land areas where the existing airport is located and contribute to regional development in Bodø and in the Salten region in Norway. The new airport will become part of the State-owned airport infrastructure network, owned and operated by Avinor. Avinor is a limited company which is owned by the Norwegian Ministry of Transport ("the MoT").

(5) The aid is granted through direct grants from the State through the MoT, as well as through a purchase of property for a price above market price by the Municipality of Bodø and Nordland County (hereinafter referred to together as "the

[1] Reference is made to Article 4(3) of the Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.
[2] Document No 1423927 (notification) and its annexes.

municipal authorities"). The property purchase is the result of a set-up of several property transactions, which will be further described in Section 3.8.4. The total aid amount relating to grants and the property purchase is NOK 5 068 million.

3.1.2 Geography of the region

(6) The new airport will be located in the vicinity of the city of Bodø. The city of Bodø is located in the Municipality of Bodø ("the Municipality"), which is in the Salten region of Nordland County in Northern Norway.

(7) Bodø is the second largest city in Northern Norway, after Tromsø and it is the largest urban area of Nordland Country. Bodø has approximately 53 424 inhabitants, of which about 85% live within the urban regional development area.

(8) Nordland County has a total of 241 084 inhabitants, spread over an area of 38 152 km^2.[3] This gives a population density of 6.3 inhabitants per km^2. The Salten region covers an area of approximately 9 342 km^2 with a population of about 74 249. The population density is therefore approximately 7.9 inhabitants per km^2 in the Salten region

(9) Northern Norway struggles demographically, because the population is aging and people move away. Bodø is a city that counterweight this development. The population in the city has been growing and the annual average rate of population growth has been 1.2% over the past 50 years.[4]

3.1.3 Economic activity in the region

(10) The exports from Nordland County account for about 8% of Norwegian mainland exports. In 2022, mainland companies in Nordland County exported goods worth NOK 5 140 million.[5] The main exports are seafood from wild catch, aquaculture, metals, metal alloys, chemicals, fertilizer, SI metals, and quartz for fibre optics.

(11) Salten is the largest region in Nordland County. The Salten region is the region in Nordland County with the best development concerning population, employment, and business turnover. The Salten region, including the Lofoten, represents 55% of the total export from Nordland County. The business of the region, including the Lofoten, had a turnover of NOK 118 billion in 2022. The biggest industries were aquaculture, metal industry, construction, retail, and tourism. Approximately 62% of the export markets for Nordland County, including the Salten region, are located in the EEA, and 72% in Europe as a whole.

(12) Bodø is the transport, health, public administrative and financial hub in Nordland County and in the Salten region. Bodø serves as a hub for the Salten and Lofoten regions, in addition to Oslo and Europe. The airport in Bodø is crucial for both the transportation of Nordland County's export products, labour force mobility, tourism and development in general.

(13) Tourism in the arctic region is strong and both the Salten region and Bodø have ambitions to be even more attractive for tourism in the future.

[3] https://www.statsforvalteren.no/nordland/om-oss/om-nordland/
[4] Document No 1423901.
[5] Indeks Nordland 2022 by KPB https://www.indeksnordland.no

3.2 Classification of airports and airplanes

(14) The European Aviation Safety Agency ("EASA") sets design criteria for aerodrome design. The design criteria list minimum distances between runways, taxiways, aircraft stands, objects and width and extent. EASA provides aerodrome reference codes, consisting of a code number and a letter. The reference codes are selected for aerodrome planning purposes and are determined in accordance with the characteristics of the aeroplane for which an aerodrome facility is intended. The aerodrome reference code numbers and letters set a code number corresponding to the highest value of the aeroplane reference field lengths of the aeroplanes for which the runway is intended. The code letter corresponds to the greatest wingspan for aeroplanes for which the facility is intended.[6]

3.3 The existing airport

(15) The existing airport is located on the westernmost tip of the Bodø peninsula, at Hernes. This is approximately 1.5 kilometres south-west of Bodø city centre. The existing airport is operated by Avinor.

(16) The existing airport has a single concrete 2 794 by 45 metres runway with asphalt overlay. The existing airport can as a starting point handle maximum reference code C[7] aircraft due to the design of the manoeuvring area at the airport. To handle aircraft of a bigger reference code than C, such as D and E (cf. Section 3.2 above), compensating actions (special procedures) must be carried out. For example, aircraft larger than code 4C on either the taxiway or the runway require that at the same time other traffic in the manoeuvring area must be avoided. The limitations are described in the operating certificate[8] approved by the Norwegian Civil Aviation Authority ("CAA") and the use of such special procedures have also been approved by CAA. According to the Norwegian authorities, the application of compensating actions to allow for the landing of aircraft of a higher reference code happen regularly. As described below in Section 3.4.2, such restrictions will not apply to the operations at the new airport.

(17) The airport is served by the four regular commercial passenger airlines Widerøe, Scandinavian Airlines System, Norwegian Air Shuttle and Lufttransport AS. The airport serves flights to major domestic destinations and serves as a hub for various public service obligation routes. The airport also serves as a hub for regional flights to Helgeland, Lofoten and Vesterålen. The airport furthermore serves domestic airports for international transfers. There are no scheduled international commercial flights from Bodø airport, but there are non-scheduled international commercial charters.

(18) In addition, the existing airport is served by Avincis, an airline primarily operating air ambulance services.

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[6] CS-ADR-DSN Issue 6 – Certification Specifications and Guidance Material for Aerodrome Design (CS-ADR-DSN).

[7] 4C airports may handle, for instance, Boeing 737 Airbus A320 and Ebraer 190-100.

[8] The certificate is granted in accordance with Commission Regulation (EU) No 139/2014 of 12 February 2014 laying down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, OJ L 44, 14.2.2014, p. 1–34 and EEA Supplement No 18, 19.3.2020, p. 774-807.

(19) The existing airport also shares facilities with the Royal Norwegian Air Force, the Bodø Main Air Station.

(20) The property where the existing airport is located is owned by the State through the Norwegian Defence Estates Agency. The exception is an area of approximately 298 acres owned by Avinor. The terminal building and other facilities at the existing airport are mainly located on the area owned by Avinor. Avinor leases part of the State-owned property, including the runway, from the State for the use of the airport today.

(21) Passenger numbers and airports in the vicinity of the existing airport are described in Section 3.6.

3.4 The new airport

3.4.1 Events leading up to the decision to construct the new airport

(22) The Norwegian Parliament designated Ørland[9] as the new base for the Main Air Station of the Royal Norwegian Air Force in 2012, by this replacing Bodø.

(23) After this decision, the Norwegian authorities looked into the possibility of relocating the existing airport. A relocation would free up some land areas close to the city centre of Bodø that could be used for regional development and create new possibilities for the airport in Bodø.

(24) In the NTP[10] for 2018 - 2029 the Norwegian Government set out an intention of granting investment aid for NOK 2.5 billion from the State for the relocation of the existing airport. Following a First External Quality Assurers Report[11] from the Norwegian authorities ("the KS1 Report")[12] and a Second External Quality Assurers Report ("the KS2 Report"),[13] prepared by Holte Consulting AS, Menon Economics and A-2 Norge AS on behalf of the MoT, the intention of granting investment aid was repeated in the NTP for 2022 - 2023. The NTP stated that this financing was conditional on a three-part financing, whereas Avinor and the Municipality and Nordland County ("the municipal authorities") would co-finance the project. The NTP mentioned that the objective of the relocation was to contribute to the regional development in Bodø.

3.4.2 Information about the new airport

(25) The new airport will replace the existing airport. The existing airport will be shut down from the point in time when the new airport becomes operative. At the same time, the existing airport area will be prepared for urban regional development projects in Bodø to fulfil the objective outlined in Section 3.5.

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[9] Innst. 388 S (2011-2012) to Prop. 73 S (2011-2012).

[10] Every four years, the Norwegian Government sets out its transport policy aims and strategies for the following 10-year period in a report to the Parliament, the National Transport Plan ("NTP").

[11] For large public projects, there is first a concept phase. A concept phase assessment (NO: "konseptvalgutredning") is prepared for that purpose. That assessment is thereafter quality controlled by independent experts, the external quality assurers (KS1) before the choice of concept is decided upon.

[12] https://www.regjeringen.no/contentassets/63e84d9c92084f79b6ea906680ddc19a/ks1-bodo-lufthavn-15062020.pdf

[13] https://www.regjeringen.no/no/dokumenter/ekstern-kvalitetssikring-ks2-av-flytting-av-bodo-lufthavn/id2866182/

(26) The new airport will be situated approximately 0.9 kilometres south and 1.4 kilometres west of the current runway at the existing airport. Avinor will purchase 1 836 acres from the State through the Defence Estates Agency where the relocated airport will be situated. This area is added to 494 acres owned by Avinor at that point through various property transactions described in Section 3.8.4 below. In total, Avinor will use an area of 2 330 acres for the construction of the new airport.

(27) The new airport will have a 2 750 metres runway and similar facilities and provide similar services to the existing airport, thus handling code C aircraft. However, the new airport will be designed in a manner which ensures performance parameters that enables it to also handle larger aircraft with references codes D and E, such as Boeing 787 Dreamliner and Airbus A-350 without applying compensating actions. Furthermore, the terminal of the airport will be built in a manner which allows it to handle both Schengen and non-Schengen flights simultaneously.

(28) In addition, the new airport will also include a remotely operated control tower and a new fire station. The Norwegian authorities have also informed that although the runway at the new airport will be somewhat shorter than at the existing airport, landing and take-off above water with reduced terrain obstacles will compensate for the decreased length. The new airport will also have improved take-off and landing conditions and lower minima for weather and visibility compared to the existing airport. The abovementioned parameters are expected to result in better regularity of the air traffic as a whole.

(29) The capacity of the airport is dimensioned based on a traffic forecast going up to 2045, with a terminal building of approximately 21 000 m^2 and capacity to handle approximately 2.3 million passengers per year. The estimated passenger numbers are further described below in Section 3.6. Parking places for 650 cars are planned. There are no plans for commercial buildings yet, as these buildings are a type of investment that will need to be determined later by purely commercial decisions by Avinor.

(30) The new airport will not be dedicated to one specific user, such as airliners, but will be open to all potential users. In the event of traffic increases that are larger than estimated and physical limitations of capacity at the new airport, the allocation will be made on pertinent, objective, transparent and non-discriminatory criteria.

(31) The new airport will be part of Avinor's airport infrastructure in Norway and will be constructed, owned and operated by Avinor. The works of the airport are planned to start in 2024 and end in June 2029. The new airport is estimated to open for regular air passenger traffic by August 2029.

3.5 Objective of the measure: The facilitation of regional development in line with point 84(c) of the Aviation Guidelines

(32) The objective of the measure is regional development in Bodø and in the Salten region. As mentioned above, the existing airport will be shut down from the point in time when the new airport becomes operative, and the existing airport area will be prepared for urban regional development projects.

(33) The Norwegian authorities have informed that the area where the new airport will be situated is not suitable for regional development purposes and explained that

there are several reasons for this. First of all, that area is less connected and linked to the existing city and urban areas in Bodø. A development would have to be based on car transport and not on green mobility. For example, the distance from the city centre is 7 - 10 km and not 1 - 3 km. Second, it is not suitable for the development of urban areas, because of noise levels from the existing airport. Third, the area is considered less attractive because it is not possible to establish port facilities there, amongst other due to soil and sub-sea conditions, wind streams and waves.

(34) The relocation on the other hand will contribute to regional development through a use of the existing airport area for such purposes. This regional development will have several beneficial effects.

(35) First of all, Bodø is in need of new suitable areas to preserve and develop its role as an important hub in the region, described above in paragraph ((12). Bodø is lacking attractive commercial areas close to the city centre and relocation will free up space for new development areas that will allow for the regional development to take place. The freeing up of the existing airport area will not only allow for the new development areas to be close to the city centre, but also to the sea, the railway station, and the (relocated) airport. The measure will also lead to a more beneficial location of public infrastructure, such as bicycle lanes, *vis-a-vis* the city centre.

(36) Second, when the relocation takes place, this will be a regional development that has benefits for the population of Bodø also through a reduced environmental and health impact. An infrastructure closer to the city centre reduces emissions due to smaller transport distances, and a subsequent reduction of traffic. By relocating the airport, the flights will be approaching over the sea from both sides, and the runway will be situated behind a hill formation, leading to noise reduction for the inhabitants in Bodø. Noise reductions have benefits for people and are important from a public health perspective.

(37) If the relocation would not take place, the alternative would be to establish new urban areas in other places outside the city centre. This would not solve the need for attractive areas in proximity to the city centre. Furthermore, a development of the city in other directions would, according to the Norwegian authorities, imply a loss of agricultural land and areas, which would have a negative environmental impact.

(38) Based on the above, the Norwegian authorities argue that the relocation of the existing airport and the construction of the new airport will entail regional development benefits in line with point 84(c) of the Aviation Guidelines.

3.6 Passenger numbers and airports in the vicinity

3.6.1 Passenger numbers in the past and in the future

(39) The existing airport had approximately 1.8 million passengers per year before the outbreak of the COVID-19 pandemic in 2020. The traffic dropped significantly following the outbreak and the existing airport had approximately 1 million

passengers in 2020. The passenger traffic increased somewhat in 2021, to approximately 1.2 million passengers.[14]

(40) An increase in future traffic has been estimated. The forecasted passenger traffic at Bodø airport is assumed to remain the same both in a scenario with construction and relocation to the new airport and in a counterfactual scenario where Avinor would not relocate but remain at the existing airport ("the counterfactual scenario").[15]

(41) Avinor uses the prognosis from the Norwegian Institute of Transport Economics ("TØI") when designing airport capacities. Avinor typically uses medium to high prognosis for long-term master planning and have done so also in this project. The prognosis provided by TØI varies considerably based on the latest short-term traffic trends.

(42) Pre COVID-19, passenger estimates were generally higher and passenger estimates have thus diminished after the pandemic. However, forecasts are inherently uncertain because the global, national and local circumstances change.

(43) Pre COVID-19, passenger estimates indicated passenger numbers of 2.3 million by 2045. The latest estimates of forecasted traffic during a 20-year economic cycle are reduced. The overview of estimated passenger traffic is found below in table 1:

Table 1: Overview of estimated passenger traffic

Year	Estimated number of passengers (million)	
	Reference forecast for the project[16] - March 2018	**TØI Long-term forecast April 2022 - Medium scenario[17]**
2025	2 011 800	1 636 144
2035	2 190 100	1 721 260
2040	2 287 000	1 766 286
2045	N/A[18]	1 802 917

(44) Due to the uncertainties concerning passenger estimates, particularly after the COVID-19 pandemic, the relocated airport is dimensioned for the originally estimated numbers, meaning more capacity than the latest traffic estimates, to avoid expansions shortly after opening.

3.6.2 Airports in the vicinity

(45) The Salten region is not well connected to the rest of Norway or the EEA without an airport. There are no other airports with scheduled air services located within 60 minutes of travelling time by car or other modes of transport from the location of the airport in Bodø. The distance and travelling time by car (and ferry) between

[14] Avinor's traffic statistics, available at http//avinor.no/konsern/om-oss/trafikkstatistikk
[15] KS2 Report, ks2-flytting-bodo-lufthavn-nett.pdf (regjeringen.no) at page 27.
[16] The Norwegian authorities have explained that this comes from the remises for master plan and land allocation, dated 16.03.2018.
[17] The Norwegian authorities have explained that this comes from the long term forecast per April 2022 – medium scenario.
[18] Forecasts in the premise document for master plan were only prepared up to the year 2040.

the existing airport and the new airport are very similar, due to the small distance between them.

(46) The closest commercial passenger airports from Bodø, which are currently in operation, are listed below in table 2:

Table 2: Airports in the vicinity

Airport	Distance	Travel time by car
Leknes (Norway)	159 km	4h 20 min (includes ferry)
Svolvær (Norway)	226 km	5h 25 min (includes ferry)
Stokmarknes (Norway)	317 km	5h 30 min
Harstad/Narvik (Norway)	310 km	5h 30 min
Mo i Rana (Norway)	217 km	3h 00 min
Tromsø (Norway)	536 km	8h 30 min
Hemavan Tärnaby	314 km	4h 20 min
Kiruna (Sweden)	482 km	7h 30 min

(47) The closest airport able to handle reference code 4C aircraft is Harstad/Narvik airport. Harstad/Narvik airport has a travel time by car (including ferry) of approximately 5h 30 min. Mo i Rana airport, which is 3h 00 min away may serve category 4C aircraft in the future.[19] Leknes, Svolvær, Stokmarknes and Hemavan Tärnaby airports can only handle category 2C aircraft. Tromsø and Kiruna can handle code D and E aircraft.

(48) The train capacity in the area is also limited and there are no prospects for developing high-speed trains in the region in the future. Bodø is the northernmost end station of Nordlandsbanen, which is a line that connects Bodø to Trondheim, and then to further destinations in Eastern, Southern and Western Norway. However, passenger travel time between Trondheim and Bodø is approximately 9h 30 min and can be 11h 40 min depending on the circumstances.

3.7 Beneficiary, aid granting authorities and national legal basis

3.7.1 Beneficiary

(49) The beneficiary of the measure is Avinor. Avinor is a private limited company, wholly owned by the MoT. Avinor owns, operates and develops a national network of airports for the civilian sector and joint air navigation services for the civilian and military sectors.

(50) Avinor has its headquarters in Oslo. Avinor and its subsidiaries have about 2 900 employees in Norway. They are responsible for planning, developing, and operating efficient airports and air navigation services for Avinor.

[19] See EFTA Surveillance Authority Decision No 154/22/COL.

(51) Avinor is financed via airport charges and commercial sales. Avinor controls three fully owned subsidiaries, namely Avinor Flysikring AS, Avinor Utvikling AS[20] and Svalbard Lufthavn AS.

(52) The Norwegian authorities have informed that an application for aid was submitted by Avinor on 27 August 2021.[21]

3.7.2 Aid granting authorities

(53) There will be two aid granting authorities, namely the Norwegian State, via the MoT, and the municipal authorities.[22]

3.7.3 National legal basis

(54) The legal basis for the aid granted by the State is the revised national budget for 2022,[23] adopted by the Norwegian Parliament.

(55) The legal basis for the aid grant by the Municipality is the Municipality's decision of 8 December 2022.[24]

(56) Furthermore, Avinor, the MoT and the Municipality will enter into a contract, which implements the instructions from the MoT and the Parliament, which sets out the terms of the aid grants.

3.8 Budget and form of aid

3.8.1 Costs and cost frame

(57) The measure aims to realise the investment project entailing the construction of the new airport and related infrastructure. The Norwegian authorities have provided a list outlining the project's main cost categories below in table 3:

Table 3: Cost structure

Types of cost	Amount (2022-NOK)
Preparatory works	53 400 000
Civil works and runway systems	2 072 000 000
Purchase of new airport property[25]	506 800 000
Tarmac (engineered surfaces)	396 400 000
Runway lights	63 200 000
Air navigation services	88 900 000
Landslide civil works	143 300 000
Terminal	1 382 900 000
Client deliveries	50 400 000

[20] In turn, Avinor Utvikling controls six wholly owned subsidiaries, namely Hell Eiendom AS, Sola Hotel Eiendom AS, Værnes Eiendom AS, Flesland Eiendom AS, Hotell Østre AS and Flyporten AS.
[21] Document No 1423905.
[22] The Municipality is responsible for the financing from themselves, and they are the contracting party in the agreement with Avinor.
[23] Prop. 1 S (2021-2022) for the Ministry, Prop. 115 S (2021-2022); see also Prop. 1 S (2022-2023).
[24] Bodø municipality's decision of 8 December 2022 in case PS 22/198.
[25] NOK 453 million as value (cost) of existing airport property and NOK 53 million as value (costs) for 196 additional acres to be kept by Avinor and also used for the new airport property.

Operational building, fire station and smaller buildings	156 100 000
Baggage handling system	167 000 000
Project owner costs	866 000 000
Preparation for operations	26 600 000
Contingency	531 800 000
Total base cost estimate (P50)	**6 504 800 000**
Uncertainty allocation	1 061 000 000
Recommended cost frame (P85)	**7 565 800 000**

(58) Norway has estimated the costs in P50[26] and P85. The costs for preparing, planning and construction for the relocated airport are estimated to NOK 6 505 million (P50) minus NOK 507 million allocated to property purchase. There is also an uncertainty allocation of NOK 1 061 million, which entails that the total recommended cost frame of the project is NOK 7 566 million (P85).

(59) The proposal from the Norwegian Government to the Parliament, for the funding of the investment costs of the new airport has been based on the P85 level, which is also the recommended cost frame. The State aid assessment also uses the P85 level, because State aid is involved also between P50 and P85, if the project costs turn out to be within that range.

(60) In addition, the Norwegian authorities have informed that there are potential tax implications related to the property transactions described in Section 3.8.4.[27] Whether such tax implications will actually materialise is highly uncertain. If such tax implications do occur, this will in practice entail that there is a reduction of the State aid amount intended to compensate the projected costs. The reduction related to the tax implication will in such an event be compensated by the State to ensure a net contribution from State resources that is in accordance with the funding model. The potential tax implications following the relocation are estimated to be 75 million NOK. This amount is therefore added to the State contribution and the total aid amount. It is also included in the calculation of maximum ceilings and aid intensity. ESA notes, however, that the Norwegian authorities have confirmed that Avinor will not be compensated with the 75 million NOK if the tax implications do not materialise.

(61) In the following, the costs for P85 and the potential tax implications of NOK 75 million will be referred to as the "total project costs".

3.8.2 Resources from the State and the Municipality

(62) The compensation is subject to a three-part financing from the State, the municipal authorities and Avinor respectively.

[26] This relies on a methodology commonly used in cost estimation of large projects and encompasses developing the base cost (no added cost due to risk) and then performing cost risk analysis. P50 is a cost estimate where 50% of all simulated cases show projected costs below and 50% above the P50 estimate. Similarly, P85 is a cost estimate where 85% of all simulated cases show projected costs below the cost estimate.

[27] In essence the compensation above market price might be taxed because the profits gained from the purchase and sale of the property might be considered taxable. The state aid amount will then in practice be reduced compared to the intention.

(63) The financing of the measure is done both through direct grants and through a compensation for a property, which is the result of a series of property transactions. The property transactions are intrinsically linked.[28]

3.8.3 Direct grant contribution from the State

(64) The contribution from the State to Avinor is comprised of four elements:

(i) a grant of NOK 3 302 000 000 in investment aid for the construction of the new airport.
(ii) a grant of NOK 614 000 000 in investment aid earmarked for Avinor for purchasing 2 333 acres of the existing airport property (including airport infrastructure) from the Defence Estates Agency.
(iii) A potential grant of NOK 530 500 000 to cover 50% of costs between P50 and P85 (NOK 1 061 000 000 in total) if the costs go beyond the recommended cost frame.
(iv) A potential grant of NOK 75 000 000 to neutralise potential tax implications and ensure a net contribution from the State resources that are in accordance with the funding model.[29]

3.8.4 Contribution by the municipal authorities

(65) Avinor already owns 298 acres of the property of the current airport. After using the earmarked aid for the purchasing the existing airport property of 2 233 acres from the Defence Estates Agency, Avinor will be the owner of 2 531 acres at the existing airport.

(66) The municipal authorities will subsequently acquire 2 037 acres of this area not needed for the new airport, including the 298 acres originally owned by Avinor. Avinor retains 494 acres of the property purchased from the State, to be used for the relocated airport.

(67) In total, the municipal authorities acquire 2 037 acres and compensate Avinor for an amount of NOK 1 107 million. The aid from the Municipality consists of this amount, with the market value of the property deducted. ESA notes that the payment from the Municipality also "consumes" the grant from the State for the property, in the sense that 614 million of the payment by the Municipal authorities cannot be counted twice when finding the total aid amount in paragraph ((70) below.

(68) The 494 acres, which are to be kept by Avinor, leaves Avinor with a net gain of about 196 acres of property related to the existing airport area.[30] The added value of this area for Avinor is roughly estimated to be NOK 54 million.[31] However, the Norwegian authorities have explained that the 494 acres area gained by Avinor for the relocated airport property has a lower value per acre than the 298 acres

[28] This is because the existing airport property would not be bought by the Municipality without ensuring that Avinor will make the investment decision to relocate the airport and put it into operation.
[29] The state aid amount will in practice be reduced if the tax implications do not materialise as the 75 million NOK will not be paid out in such an event.
[30] Avinor initially owns 298 acres, which is sold, then permanently acquires a different area of 494 acres.
[31] This is found by assuming equal value per acre for the entire area at the existing airport, NOK 275 000 per acre.

area sold. This is due to the existence of infrastructure and access roads on the latter and existence of pollution in the former. Therefore, the gain in property value for Avinor is probably less than 54 million, but 54 million is used as an approximation for simplicity.

(69) Including the NOK 614 million grant from the Defence Estates Agency and subsequent purchase and sale of the various properties relating to the existing airport area, the net contribution to Avinor following these property transactions will be NOK 1 107 million in cash,[32] as well as maximum NOK 54 million in increased property value for the net gain of 196 acres of property.

(70) The total aid amount contributed, based on the grant contribution from the State as well as the municipal gain that stems from the property transactions, is therefore approximately and no more than NOK 5 068 300 000.[33] This covers 66.3% of Avinor's eligible costs of NOK 7 640 800 000.

3.8.5 Contribution provided by Avinor

(71) A key premise for the financial model is that the relocation of the airport shall not put Avinor in neither a better nor worse financial position than in the counterfactual scenario. The planned support is therefore set to take into account the costs that Avinor would have had in the counterfactual scenario. The funding gap calculated by the Norwegian authorities is explained in further detail in Section 3.9.2 below.

(72) In essence, the costs related to upgrades and maintenance of service levels and capacity have been estimated to NOK 2 042 million for the next 20 years. Furthermore, Avinor has estimated savings in lease costs of up to NOK 360 million, due to no longer having to rent property at the relocated airport. In addition, Avinor will have slightly different operational revenues and costs at the relocated airport compared to the existing airport. Avinor has done a business case and estimated this latter benefit to a net present value of NOK 12 million over the next 40 years, see Section 3.9.2.2.

(73) Against this background, Avinor's extra costs with the new airport, with additional net revenues deducted, amounts to 5 227 million NOK. Avinor will finance from its own funds NOK 2 042 million. In addition, Avinor will cover 50% of the costs between P50 and P85, amounting to NOK 530.5 million. This contribution is equal to the contribution from the State, mentioned in paragraph ((64).

(74) Avinor will have to fund all costs that exceed the P85 level. Avinor also has to fund costs related to the tax implications going beyond 75 million NOK.

3.9 Eligible costs, funding gap and aid intensity

3.9.1 Eligible costs

(75) The costs of the project are described in Section 3.8.1. Eligible costs are costs relating to the investments in airport infrastructure, including planning costs, ground handling infrastructure (such as baggage belts etc.) and airport

[32] The NOK 614 million granted by the State to Avinor can be regarded as "consumed" by the next transaction, in the sense that the amount cannot be counted twice.

[33] This is the amounts of NOK 3 302 million, 1 107 million, 531 million, 54 million and the potential 75 million.

equipment. The eligible costs, defined in accordance with point 97 of ESA's Guidelines on State aid to airports and airlines ("the Aviation Guidelines"),[34] are estimated to be NOK 7 566 million, plus NOK 75 million, in total NOK 7 641 million.

(76) The Norwegian authorities have explained that certain cost items could potentially be considered to be non-economic in nature. Certain costs items that are non-economic in nature remain eligible costs. At an airport, activities such as air traffic control, police, customs, firefighting and safeguard of civil aviation against acts of unlawful interference must be considered as exercise of public authority and in general fall outside the State aid rules.[35] However, these costs are, while linked with the exercise of public authority, also related to investments in the relocated airport infrastructure and equipment and remain eligible within the meaning of the Aviation Guidelines.[36] In the case at hand, the public authority costs are listed below in table 4:

Table 4: Cost categories associated with public authorities

Cost categories associated with public authorities	Amount (2022-NOK)
Air traffic control (air navigation)	29 700 000
Police	12 800 000
Customs	7 900 000
Firefighting	52 400 000
Air ambulance	2 900 000
Security for aviation against unlawful interference	36 600 000
Total costs associated with public authority	142 000 000

(77) In the absence of a legal regime excluding undue discrimination between airports incurring such costs, the Norwegian authorities have included those costs not only in the eligible investment costs, but also in the aid amounts for calculating aid intensities (cf. the Aviation Guidelines point 37).

(78) The Norwegian authorities have explained that as investment costs relating to non-aeronautical activities (in particular parking, hotels, restaurants and offices) are ineligible, no non-aeronautical activities will be financed by the public purse. Investments concerning, for instance, parking garages, hotels, multi-purpose hangars and other rental buildings will be determined by Avinor and funded by them on commercial terms.

[34] As adopted by ESA's Decision No 216/14/COL of 28 May 2014 amending for the 96th time the procedural and substantive rules in the field of state aid by adopting new Guidelines on State aid to airports and airlines [2016/2051], OJ L 318, 24.11.2016, p. 17-51, EEA Supplement No 66, 24.11.2016, p. 1-33.

[35] Judgment of 16 June 1987, *Commission* v *Italy*, C-118/85, EU:C:1987:283, paragraphs 7 and 8; and Judgment of 4 May 1988, *Bodson/Pompes funèbres des régions libérées*, C-30/87, EU:C:1988:225, paragraph 18.

[36] See for example Commission Decision in SA.58933 (Hungary), Investment aid for developments ensuring the safe operation of Debrecen International Airport, OJ C 60, 4.2.2022.

(79) Investment relating to facilities, parking spaces and other needs linked to the Norwegian Air Force aircraft will not be considered eligible. These costs will be financed separately by the Norwegian Air Force as this is infrastructure for activities of public authority.

3.9.2 Calculation of the funding gap

3.9.2.1 Background

(80) According to the Aviation Guidelines point 99, investment aid to airports must be limited to extra costs (net of extra revenues) which result from undertaking the aided project/activity rather than the alternative project/activity that the beneficiary would have undertaken in the counterfactual scenario in order to be proportionate. For investment aid, the business plan should cover the period of the economic utilisation of the asset.

(81) Against this background, the Norwegian authorities calculated the funding gap of the investment project as the total project costs, subtracted the necessary upgrade costs at the existing airport and the estimated net present value of both future lease costs at the current airport and the projected increase in future cash flows operating the new airport, as calculated in the business case.

(82) In the absence of State support, according to the Norwegian authorities, i.e. in a non/investment scenario, Avinor would continue to operate at the existing airport. Norway has also explained that in such a scenario Avinor would have entered into a commercially negotiated long-term lease agreement for the area currently leased at the existing airport property.

(83) The Norwegian authorities have calculated the allowed aid amount in line with point 99 of the Aviation Guidelines. The Norwegian authorities have explained that they find it appropriate to base the calculation on a 40-year perspective as this is the period of the economic utilisation of the airport infrastructure in accounting terms, as the longest projected lifetime of the buildings in the project is 40 years.

3.9.2.2 The business plan: the calculation of operating costs and income

(84) Avinor has provided ESA with a business plan estimating the net present value of the difference in the projected income and operating costs of the airport in the factual and counterfactual scenario.[37] This is done based on the budget and prognosis of the current airport for 2023 (the counterfactual) and then applying assumed changes to the various income and cost elements for the factual scenario. The values are discounted to 2022 figures using a nominal WACC[38] of 5.1%.

(85) Avinor finds a net present value of NOK 6 million for the first 20 years of operation and NOK 12 million for the first 40 years.

3.9.2.3 Calculation of costs in the counterfactual scenario

(86) The Norwegian authorities have explained that when taking the most likely counterfactual scenario into account, Avinor would need to upgrade the current airport for NOK 2 042 million over a 20-year perspective in order to achieve

[38] WACC = Weighted average cost of capital.

similar capacity and service levels as the relocated airport. Furthermore, the Norwegian authorities have informed that with the planned investments in the counterfactual scenario, the need for maintenance of the airport infrastructure after 20 years will be the same in both the factual and the counterfactual scenario.

(87) In addition to maintenance and upgrade costs, Avinor will, in the counterfactual scenario, continue to lease the existing airport property. The Norwegian authorities have estimated that the costs of the lease of property in the counterfactual scenario amounts to maximum NOK 360 million.

3.9.3 Conclusions on the funding gap calculation and maximum ceiling of aid amounts

(88) Based on the above, Avinor's cost for the investment is at the outset NOK 7 641 including the potential cost of NOK 75 million. In the counterfactual scenario Avinor would have had costs of NOK 2 042 million for necessary upgrades and lease costs of maximum NOK 360 million. The extra costs compared to the counterfactual is therefore NOK 5 239 million when costs in the counterfactual are deducted.

(89) In addition, Avinor will have extra revenues at the relocated airport compared to the existing airport due to the improved "business case" at the relocated airport. As the lifetime of the investment is 40 years, the calculations have been made by Avinor for a time period of 40 years. The improved business case is estimated at NOK 12 million. When the extra revenues of NOK 12 million are subtracted from the extra costs of NOK 5 239 million this leads to a funding gap of 5 227 million NOK.

(90) The calculation of the maximum aid ceiling for Avinor in absolute terms can, as a consequence, be calculated as shown below in table 5:

Table 5: Calculation of maximum allowed aid in absolute terms

Investment project	**Amount (2022-NOK)**
Total costs for Avinor	7 640 800 000
Saved costs for Avinor in the counterfactual	**Amount (2022-NOK)**
Necessary upgrades at existing airport	2 042 000 000
Lease costs at existing airport	360 000 000
"Foregone" revenue for Avinor in the counterfactual	**Amount (2022-NOK)**
Less good business case at the existing airport	12 200 000
Aid limited to extra costs (net of extra revenue)	**Amount (2022-NOK)**
Extra costs	5 238 800 000
Extra revenues	12 200 000
Maximum allowed aid amount in absolute terms	**5 226 600 000**

3.10 Transparency of the aid and cumulation

(91) The Norwegian authorities have committed to observe and comply with the transparency requirements in section 8.2 of the Aviation Guidelines, as amended

by the "Transparency communication",[39] and publish the aid award in the national transparency register.[40]

(92) The Norwegian authorities have confirmed and explained that the notified aid will not be cumulated with any other State aid, *de minimis* aid, or other forms of EEA financing, in line with point 159 of the Aviation Guidelines.

4 Presence of State aid

4.1 Introduction

(93) Article 61(1) of the EEA Agreement reads as follows: "Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Contracting Parties, be incompatible with the functioning of this Agreement."

(94) The qualification of a measure as aid within the meaning of this provision requires the following cumulative conditions to be met: (i) the measure must be granted by the State or through State resources; (ii) it must confer an advantage on an undertaking; (iii) favour certain undertakings (selectivity); and (iv) threaten to distort competition and affect trade.

4.2 Economic activity and the notion of undertaking

(95) According to settled case-law, it must first be established whether Avinor is an undertaking within the meaning of Article 61(1) of the EEA Agreement. The concept of an undertaking covers any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed[41] and that any activity consisting in offering goods and services on a given market is an economic activity.[42]

(96) The General Court has confirmed that the operation of an airport, including the provision of airport services to airlines and to the various service providers within the airport, is an economic activity.[43] Furthermore, in the *Leipzig-Halle* judgment, the Court of Justice confirmed that the construction of commercial airport infrastructure is also an economic activity in itself.[44] It is an entity's engagement in economic activities, regardless of its legal status or the way in which it is financed,

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[39] ESA Decision No 302/14/COL of 16 July 2014 amending for the ninety-ninth time the procedural and substantive rules in the field of State aid by modifying certain State aid Guidelines, OJ L 15, 22.1.2015, p. 103–105, and EEA Supplement No 4, 22.1.2015, p. 1.

[40] https://data.brreg.no/rofs/

[41] Judgment of 18 June 1998, *Commission* v *Italy*, C-35/96, EU:C:1998:303, paragraph 36; judgment of 23 April 1991, *Höfner and Elser*, C-41/90, EU:C:1991:161, paragraph 21; judgment of 16 November 1995, *FFSA and Others* v *Ministère de l'Agriculture and de la Pêche*, C-244/94, EU:C:1995:392, paragraph 14; judgment of 11 December 1997, *Job Centre*, C-55/96, EU:C:1997:603, paragraph 21.

[42] Judgment of 16 June 1987, *Commission* v *Italy*, C-118/85, EU:C:1987:283, paragraph 7; *Commission* v *Italy*, C-35/96, paragraph 36, at footnote 35.

[43] Judgment of 12 December 2000, *Aéroports de Paris* v *Commission*, T-128/98, EU:T:2000:290, confirmed by judgment in Case C-82/01, EU:C:2002:617.

[44] Judgment of 19 December 2012, *Mitteldeutsche Flughafen and Flughafen Leipzig-Halle* v *Commission*, C-288/11 P, EU:C:2012:821; see also judgment of 24 October 2002, *Aéroports de Paris* v *Commission*, C-82/01 P, EU:C:2002:617, and judgment of 17 December 2008, *Ryanair* v *Commission*, T-196/04, EU:T:2008:585.

that categorises it as an undertaking within the meaning of Article 61(1) of the EEA Agreement. As a consequence, the State aid rules of the EEA Agreement are capable of applying to any advantages granted by the State or through State resources to that undertaking.[45]

(97) The new airport will be operated on a commercial basis by Avinor, and thus Avinor will be carrying out economic activities, both by constructing the airport and by operating it. The infrastructure will be commercially exploitable, seeing that Avinor will be able to charge customers for its use. Accordingly, the entity exploiting the infrastructure constitutes an undertaking for the purposes of Article 61(1) of the EEA Agreement.

(98) ESA notes that activities that normally fall under a State's responsibility in the exercise of its powers as a public authority are not of an economic nature and do not fall within the scope of the State aid rules.[46] Such activities may include, for example, security, air traffic control, police, customs, etc.[47] The Norwegian authorities have informed that such activities exist (see Section 3.9.1).

(99) In the case at hand, for some of the cost items relating to such activities it could be argued that although part of the eligible costs, they are of a non-economic nature, and that the various limits on aid intensities set out in the Aviation Guidelines consequently do not apply to them. In such an event, the costs may on certain conditions be financed 100% by the public purse without constituting State aid.

(100) As explained by the Norwegian authorities in Section 3.9.1, it is not clear whether public funding to cover costs of non-economic activities is granted to all civil airports in Norway. According to point 37 of the Aviation Guidelines, public financing of non-economic activities must not lead to undue discrimination between airports. If it is normal under a given legal order that civil airports have to bear certain costs inherent to their operation, whereas other civil airports do not, the latter might be granted an advantage regardless of whether or not those costs relate to an activity which in general is considered to be of a non-economic nature.

(101) The Norwegian authorities have informed that it is not clear whether there is a legal regime excluding undue discrimination in place in Norway. Accordingly, the Norwegian authorities do not argue that funding the project's costs of non-economic nature should be outside the application of the State aid rules. Consequently, the measure should, in full, be considered to relate to an economic activity.

4.3 *State resources*

(102) The measure must be granted by the State or through State resources. The transfer of State resources may take many forms, including direct grants.

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[45] Judgment of 17 February 1993, *Poucet* v *AGV and Pistre* v *Cancave*, C-159/91 and C-160/91, EU:C:1993:63.

[46] *Commission* v *Italy*, C-118/85, paragraphs 7 and 8, at footnote 36, and judgment of 4 May 1988, *Bodson/Pompes funèbres des régions libérées*, C-30/87, EU:C:1988:225, paragraph 18.

[47] See, for instance, point 35 of the Aviation Guidelines, at footnote 9.

(103) The measure is granted by the State, through the MoT and the municipal authorities and is financed from their general budgets. The measure was decided to be funded and granted to the beneficiary by the Norwegian Parliament and the MoT and by the Municipality. The funding is therefore imputable to the State and involves State resources.

4.4 Conferring a selective advantage

(104) The measure must confer a selective advantage on Avinor that relieves it of charges that are normally borne by its budget. The measure must also be selective in that it favours "certain undertakings or the production of certain goods".

(105) The measure reduces the investment costs that an airport owner/operator as an undertaking would normally have to bear if it wanted to increase its operations in the area. The measure therefore confers an economic advantage on Avinor.

(106) As the measure is granted only to Avinor and thus only to a single undertaking, ESA finds the measure to be selective.

4.5 Effect on trade and distortion of competition

(107) The measure must be liable to distort competition and to affect trade between the Contracting Parties to the EEA Agreement.

(108) Competition takes place between airports and between airport operators that may compete between themselves to be entrusted with the management of a given airport. Although limited, the new airport will, to some extent, compete with other airports in Norway and in the EEA, in particular with airports in Sweden.[48] The measure will strengthen Avinor's position as an operator and the airport's position against other airports. As a consequence, the measure is liable to distort competition and has an effect on trade.

4.6 Individual aid

(109) ESA notes that the aid is not granted on the basis of a scheme.[49] The aid is therefore individual aid.

4.7 Conclusion

(110) The notified measure constitutes State aid within the meaning of Article 61(1) of the EEA Agreement.

5 Lawfulness of the aid

(111) Pursuant to Article 1(3) of Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ("Protocol 3"): "The EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. … The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision."

[48] As mentioned above, Hemavan Tarnaby is 314 km away and Kiruana is 482 km away.

[49] See judgment of 30 June 2016, *Kingdom of Belgium* v *Commission*, C-270/15 P, EU:C:2016:489, paragraph 49; judgment of 11 December 2019*, Mytilinaios Anonymos Etairia – Omilios Epicheiriseon* v *European Commission*, C-332/18 P, EU:C:2019:1065, paragraph 67.

(112) The Norwegian authorities have notified the measure and have yet to let it enter into force. They have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

6 Compatibility of the aid

6.1 Introduction

(113) In derogation from the general prohibition of State aid laid down in Article 61(1) of the EEA Agreement, aid may be declared compatible if it can benefit from one of the derogations enumerated in the Agreement. The Norwegian authorities invoke Article 61(3)(c) of the EEA Agreement as the basis for the assessment of the compatibility of the aid measure.

(114) Article 61(3)(c) of the EEA Agreement provides that ESA may declare compatible "aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest". Therefore, in order to declare the aid compatible, first, the aid must be intended to facilitate the development of certain economic activities or of certain economic areas and, second, the aid must not adversely affect trading conditions to an extent contrary to the common interest.[50]

(115) Under the first condition, ESA examines how the aid facilitates the development of certain economic activities or areas. Under the second condition, ESA weighs up the positive effects of the aid for the development of said activities or areas and the negative effects of the aid in terms of distortions of competition and adverse effects on trade.

(116) For cases dealing with aid to airports, these conditions are outlined in the Aviation Guidelines. ESA considers the Aviation Guidelines to be applicable to the case at hand, as the measure concerns the relocation and construction of an airport. ESA will therefore assess the measure in light of the conditions laid down in the Aviation Guidelines.

6.2 Facilitation of development of certain economic activities or areas

6.2.1 Economic activities or areas supported

(117) Under Article 61(3)(c) of the EEA Agreement, in order to be considered compatible, the measure must contribute to the development of certain economic activities or areas.

(118) The measure will support the development of an economic activity, namely the provision of airport services. This is done by facilitating the construction of a new airport, following the relocation of the existing airport. The objective of the measure is also the regional development in Bodø and in the Salten region (see Section 3.5 above). The measure therefore also contributes to the development of certain areas.

(119) In view of the above, ESA considers that the measure constitutes aid to facilitate the development of both certain economic activities and certain economic areas

[50] Judgment of 22 September 2020, *Austria* v *Commission* (*Hinkley Point C*), C-594/18 P, EU:C:2020:742, paragraphs 18–20.

as required by Article 61(3)(c) of the EEA Agreement and in line with the recognised objectives set out in the Aviation Guidelines.[51]

6.2.2 Incentive effect

(120) State aid is only compatible with the functioning of the EEA Agreement if it has an incentive effect and so effectively facilitates the development of certain economic activities or areas. To establish whether the measure has an incentive effect, it must be demonstrated that it changes the behaviour of the undertaking concerned in such a way that it engages in an activity which it would not carry out without the aid or which it would carry out in a restricted or different manner.

(121) According to the formal incentive effect condition of point 93 of the Aviation Guidelines, works on an individual investment can only start after an application has been submitted to the granting authority.

(122) Point 94 of the Aviation Guidelines specifies that an investment project at an airport may be economically attractive in its own right. Therefore, it needs to be verified that the investment would not have been undertaken or would not have been undertaken to the same extent without the State aid. If this is confirmed, ESA will consider that the aid measure has an incentive effect. Point 95 the Aviation Guidelines stipulates that "[t]he incentive effect is identified through counterfactual analysis, comparing the levels of intended activity with aid and without aid".

(123) The Norwegian authorities have confirmed that the aid application was submitted to the granting authorities on 27 August 2021. The Norwegian authorities have confirmed that subsequently and at the current point in time, only some minor preliminary works in the form of the digging of a ditch and the relocation of an electrical power site have been undertaken by Avinor. The works started without any promise of public funding and were undertaken after the submission of the aid application. In other words, the costs related to these works will be carried by Avinor if ESA was not to approve the aid.

(124) The Norwegian authorities have also provided information on the project business plan and calculations of a funding gap. The calculations show a funding gap of NOK 5 227 million, further described in Section 3.9.2. The mentioned information demonstrate that the project is not financially profitable without the aid and is not economically in its own right. Thus, when comparing the levels of intended activity with aid and without aid, it is evident that Avinor would remain in the counterfactual scenario if not for the measure. In other words, Avinor would not have undertaken the construction and operation of the new airport without the aid.

(125) Against this background, ESA notes that no works were undertaken before the submission of an aid application, in accordance with point 93 of the Aviation Guidelines. Furthermore, and in line with also point 94 of the Aviation Guidelines, ESA considers that in the absence of the notified measure, Avinor would not have carried out the project of relocating the airport. Thus, the project would not have taken place, and consequently the development of the economic activities and areas would not have been facilitated. In conclusion, ESA finds that the measure has an incentive effect.

[51] Point 84(c) of the Aviation Guidelines.

6.2.3 Compliance with relevant EEA law

(126) If a State aid measure, the conditions attached to it (including its financing method when the financing method forms an integral part of the State aid measure), or the activity it finances entail a violation of relevant EEA law, the aid cannot be declared compatible with the functioning of the EEA Agreement.[52]

(127) ESA has no indications that the measure, the conditions attached to it, or the activity it finances entail a violation of relevant EEA law.

6.3 Whether the aid adversely affects trading conditions to an extent contrary to the common interest

6.3.1 Introduction

(128) ESA should not only identify positive effects of the planned aid for the development of the economic activities and areas, but also possible negative effects in terms of distortions of competition and adverse effects on trade. These positive and negative effects must then be weighed up.

(129) The aid has an effect on the provision of airport management services. This is the market the European Commission has considered to be affected in its recent decisional practice concerning investment aid to airports.[53] ESA also considered this market to be affected in its Decision No. 154/22/COL on Investment aid to Avinor for a new airport in Mo i Rana.[54]

6.3.2 Positive effects of the aid

(130) The core purpose of the measure is to contribute to regional development of the Salten region and the city of Bodø. This is an objective of common interest in accordance with point 84(c) of the Aviation Guidelines.

(131) The new airport will facilitate the regional and economic development of the region by freeing up the area where the existing airport is currently located. The area is attractive and will be used by the municipal authorities to create a new city district in Bodø. The regional development will have several benefits for the community and for the population of Bodø, as described in Section 3.5.

(132) ESA notes that this new city area will only be created once the new airport has become operative and that the relocation is a necessary condition for this development to take place. ESA furthermore notes that the area which the airport will be relocated to is less suitable for such purposes, in line with the points further elaborated on in Section 3.5.

(133) Against this background, ESA concludes that the measure facilitates regional development in line with point 84(c) of the Aviation Guidelines.

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[52] Judgments of 19 September 2000, *Germany* v *Commission*, C-156/98, EU:C:2000:467, paragraph 78; 22 December 2008, *Régie Networks*, C-333/07, EU:C:2008:764, paragraphs 94–116; 22 September 2020*, Austria* v *Commission* (*Hinkley Point C*), C-594/18 P, EU:C:2020:742, paragraph 44; 14 October 2010, *Nuova Agricast*, C-390/06, EU:C:2008:224, paragraphs 51–51.

[53] Commission Decision in SA.58933 (Hungary), Investment aid for developments ensuring the safe operation of Debrecen International Airport, OJ C 60, 4.2.2022, page 1, paragraph 114.

[54] Decision No 154/22/COL.

6.3.3 Limited negative effects of the aid

6.3.3.1 Introduction

(134) Article 61(3)(c) of the EEA Agreement requires an assessment of any negative effects on competition and on trade. The aid must not adversely affect trading conditions to an extent contrary to the common interest. In this respect, the Aviation Guidelines provide guidance on assessing whether the aid may be declared compatible by setting out a number of cumulative criteria, which ESA takes into account in its assessment.

(135) In particular, ESA will assess whether the measure has limited negative effects by ensuring that: the intervention is necessary; the aid is appropriate as a policy instrument; the aid is proportionate; the undue negative effects are avoided; and the rules on cumulation and transparency are respected.

6.3.3.2 Necessity of the aid

(136) A State aid measure is necessary if it is targeted towards situations where aid can bring about a material improvement that the market cannot deliver itself.

(137) According to point 87 of the Aviation Guidelines, it is necessary to first identify the problem to be addressed in order to assess whether State aid is effective in achieving the sought-after objective.

(138) As mentioned in paragraph ((40) on the forecasted passenger traffic for the airport of Bodø, the estimated number of passengers is between 1 000 000 and 3 000 000 passengers. In accordance with point 89(c) of the Aviation Guidelines, airports with annual passenger traffic of 1-3 million should, on average, be able to cover their capital costs to a greater extent. However, point 89 of the Aviation Guidelines still acknowledges that there can be difficulties in obtaining funding also in these instances.

(139) ESA considers that the existence of the large funding gap in relation to the project demonstrates that the investment could not be completed using only resources provided by the airport operator.

(140) As described in Section 3.9.2 above, the project has a large funding gap. In the absence of the measure, the project would not be financially sustainable and, accordingly, would not generate sufficient profits as could be expected from the point of view of a private investor. An investment decision to relocate the airport and construct a new airport would lead to losses unless there was public funding involved. This illustrates that the investment could not be realised without State aid.

(141) In conclusion, there is a necessity for State intervention.

6.3.3.3 Appropriateness of the aid

(142) EFTA States can make different choices with regard to policy instruments and State aid control does not impose a single way to intervene in the economy. However, State aid under Article 61(1) of the EEA Agreement can only be justified by the appropriateness of a particular instrument to contribute to the development of the targeted economic activities or areas.

(143) ESA normally considers that a measure is an appropriate instrument where the EFTA State can demonstrate that alternative policy options would not be equally suitable to contribute to the development of economic activities or areas and where it can demonstrate that alternative, less distortive, aid instruments would not deliver equally efficient outcomes. This is in line with point 90 of the Aviation Guidelines.

(144) The Norwegian authorities have explained that a direct grant and payments through a set of property transactions is an appropriate aid instrument to achieve the objective of the investment. The Norwegian authorities have explained that less distortive aid instruments, such as a loan at reduced interest rates, would not be a viable alternative to a direct grant. A loan would have created very high costs for Avinor and the revenues would not be sufficient to cover the principal loan amount. Similarly, a guarantee would not have relived Avinor of the significant additional financial burden borne by Avinor's investment decision to implement the project.[55]

(145) The extra costs for the construction and relocation of the new airport would by far outweigh the benefits for Avinor and the extra revenues generated at the new airport will not be sufficient to cover even a principal loan amount. Consequently, other instruments would not be equally suitable, and in fact unlikely to obtain the outcomes that the measure seeks to obtain.

(146) In view of the above, ESA considers that State aid is the appropriate instrument to facilitate the development of the economic area and activity.

6.3.3.4 Proportionality of the aid

(147) State aid is proportionate if the aid amount per beneficiary is limited to the minimum needed to incentivise the additional investment or activity in the area concerned.

(148) Point 97 of the Aviation Guidelines sets out the maximum permissible amount of State aid expressed as a percentage of eligible costs (the maximum aid intensity).

(149) ESA notes that the measure covers only eligible costs, as the costs solely relate to necessary investments in airport infrastructure, see Section 3.9.1. Thus, all of NOK 7 566 million (P85) in the investment project, as well as the potential grant of NOK 75 million that seeks to ensure that the State aid contribution does indeed cover all of those costs, for a total of NOK 7 641 million, are considered to be eligible costs.

(150) Under point 101 of the Aviation Guidelines, the maximum permissible aid intensity for airports with passengers between 1 and 3 million passengers per annum is up to 50% of the eligible investment costs. According to footnote 86 of the Aviation Guidelines, the number of passengers per annum is the actual average annual passenger traffic during the 2 financial years preceding that in which the aid is notified.

[55] See, for comparison, for instance Commission decision in Case SA.40197 (2016/N) Vilnius airport, at paragraph 76.

(151) According to the information provided by the Norwegian authorities, Bodø airport had approximately 1.8 million passengers annually and consequently had between 1 - 3 million passengers in the financial years of 2022 and 2021 (see Section 3.6 above). The passenger estimates for the new airport are uncertain, but there are between 1 - 3 million passengers in the scenario for the year 2045 (see Section 3.6 above). The aid intensity is therefore set as 50% as a starting point.

(152) Furthermore, point 102 of the Aviation Guidelines states that the maximum aid intensities for investment aid to finance airport infrastructure located in remote regions may be increased by up to 20%, irrespective of the size of the airport. Therefore, the aid intensity for airports with a number of passengers as Bodø, located in remote regions, can be up to 70%.

(153) According to the Aviation Guidelines, sparsely populated areas qualify as remote regions. According to the Aviation Guidelines point 25(27) a sparsely populated area means NUTS 2 regions with less than 8 inhabitants per km^2 based on Eurostat data on population density.

(154) According to Eurostat data, all regions in Norway are either NUTS 2 or NUTS 3 regions.[56] The Norwegian authorities note that, being a sparsely populated area, the region qualifies as a "remote region" (points 25(26) and 25(27) of the Aviation Guidelines).

(155) Based on the population density referred to in paragraph ((8), Bodø and the Salten region thus qualify as a NUTS 2 region and a sparsely populated area, as well a remote region, in accordance with points 25(26) and 25(27) of the Aviation Guidelines. Consequently, an aid intensity of 70% of eligible investment costs may be justified under the Aviation Guidelines.

(156) As mentioned above in paragraph ((70) the total aid amount is equal to the joint contribution from the State and the municipal authorities, which equals NOK 5 068 300 000. This aid amount covers 66.3% of Avinor's eligible costs of NOK 7 640 800 000. Consequently, the aid intensity is below 70%.

(157) Furthermore, as set out in point 99 of the Aviation Guidelines, investment aid to airports must be limited to the extra costs (net of extra revenues) which result from undertaking the aided project rather than the alternative project that the beneficiary would have undertaken in the counterfactual scenario, that is to say, if it had not received the aid. For investment aid, the business plan should cover the period of the economic utilisation of the asset.

(158) In the absence of State aid, according to the Norwegian authorities, i.e. in a non-investment scenario, Bodø airport would continue to operate at the existing airport. In such a scenario some upgrades would have to be made to the existing airport.

(159) Norway calculates the funding gap of the investment project as the total project costs (NOK 7 641 million) subtracted the necessary upgrade cost at the existing airport (NOK 2 042 million) and the estimated net present value of both maximum

[56] See Excel-sheet on the following website: https://ec.europa.eu/eurostat/web/nuts/background

future lease costs at the current airport (NOK 360 million) and the projected increase in future cash flows operating new airport calculated in the business case (NOK 12 million). ESA notes that this methodology is appropriate, given that it is credible to assume that Bodø airport would continue its operation in case the investment project was not to take place. The calculation of the funding gap, as provided by the Norwegian authorities, takes into consideration all relevant revenues, operating costs and capital expenditures related to the investment project (see Section 3.9.2 above).

(160) ESA has reviewed in detail the funding gap calculations and verified the relevant assumptions included in those calculations against the justifications provided by the Norwegian authorities. ESA finds that the Norwegian authorities have demonstrated, through the calculations and explanations provided, that the aid amount does not exceed the funding gap.

(161) The aid ceiling is on the basis of the mentioned calculations NOK 5 227 million. The total aid amount is NOK 5 068 million. As a consequence, ESA finds also that the total aid amount is below the ceiling outlined in point 99 of the Aviation Guidelines.

(162) Therefore, considering that the aid does not exceed the capital cost funding gap, nor the maximum permissible aid intensity, ESA concludes that the measure is proportionate.

6.3.3.5 Avoidance of undue negative effects on competition and trade

(163) The negative effects of the aid must be sufficiently limited, so that the overall balance of the measure is positive. According to points 8, 85, 86 and 106 of the Aviation Guidelines, the duplication of unprofitable airports or the creation of additional unused capacity in the catchment area of existing infrastructure might have distortive effects, especially when airports do not operate at or near full capacity.

(164) If an investment project is primarily aimed at creating new airport capacity, the new infrastructure must, in the medium-term, meet the forecasted demand of the airlines, passengers and freight forwarders in the catchment area of the airport. Any investment which does not have satisfactory medium-term prospects for use or diminishes the medium-term prospects for use of existing infrastructure in the catchment area, cannot be considered to serve an objective of common interest.

(165) ESA notes that in recent case practice concerning investment aid to airports, the Commission also relies on these principles in assessing avoidance of undue negative effects on competition and trade.[57]

(166) According to point 25(12) of the Aviation Guidelines, the “catchment area” is defined as a “geographic market boundary that is normally set at around 100 kilometres or around 60 minutes travelling time by car, bus, train or high-speed train; however, the catchment area of a given airport may be different and needs to take into account the specificities of each particular airport. The size and shape of the catchment area varies from airport to airport, and depends on various

[57] Commission Decision in SA.58933 (Hungary), Investment aid for developments ensuring the safe operation of Debrecen International Airport, OJ C 60, 4.2.2022, page 1, paragraph 146.

characteristics of the airport, including its business model, location and the destinations it serves".

(167) The creation of new capacity is not the primarily aim of the project. However, once an airport is indeed constructed the new airport has been designed for a capacity of up to 2.3 million passengers annually based on numbers estimated prior to the COVID-19 pandemic. The most recent passenger estimates indicate that the numbers will be lower than these original estimates. ESA acknowledges the need to dimension the airport in line with how the Norwegian authorities have chosen to do so. As the numbers vary greatly based on short term traffic trends (see Section 3.6.1 above) and are highly uncertain there is a legitimate need to try to avoid expansions closely after opening.

(168) ESA considers that the measure will not lead to any duplication of the airports as mentioned in point 85 of the Aviation Guidelines.

(169) In this regard, ESA first notes that the relocated airport will replace the existing Bodø airport. There is therefore no duplication of an unprofitable airport or creation of additional unused capacity. Second, the closest airport to the relocated airport is Leknes airport, located 159 kilometres away from the relocated Bodø airport (see Section 3.6.2 above). This is a smaller airport. The most comparable airport Harstad/Narvik is located 350 kilometres away and Mo i Rana is located 230 kilometres away, with traveling times of 5 hours and 20 minutes and 3 hours and 20 minutes by car. In total the airports are located from 159 km to 536 km away from the relocated airport, with traveling times at 4 hours and 20 minutes as minimum and including ferry. ESA notes also that the travelling by road and ferry are at times affected by the harsh weather conditions in the region.

(170) Based on the above, ESA notes that there are no other airports located in the catchment area of around 100 kilometres from the relocated Bodø airport. The fact that there is no alternative airport in the catchment area reduces the negative impact of the aid.

(171) In any event, ESA notes that the Commission's decisional practice also recognised that the size of the country, the low population density and the often-difficult driving conditions also mitigate the risk for duplication in the rare cases where two airports benefitting from the aid may have been located closer than the indicative distances in the Aviation Guidelines.[58] It is clear that there is a low population density and that difficult driving conditions can occur in the northern part of the Norwegian State.

(172) Therefore, ESA considers that the aid for the construction of the new and relocated airport will not lead to the duplication of (unprofitable) airports or create additional unused capacity in the same catchment area, and that it will not have a negative impact on the competitive position of other airports. The measure is therefore considered to be in line with the requirements in points 8, 85, 86 and 106 of the Aviation Guidelines.

[58] Commission Decision in SA.18857 (Sweden), alleged aid to Vasteras Airport and Ryanair ltd, OJ L 207, 4.8.2015, pages 40 -72, paragraph 201.

(173) ESA also notes that, as confirmed by the Norwegian authorities, in line with point 108 of the Aviation Guidelines, the new airport will be open to all potential users and is not dedicated to one specific user.

(174) On the basis of the above, ESA concludes that the aid measure will not lead to a duplication of airports within the catchment area and that any negative effects of the aid on competition and on trade are limited.

6.3.4 Cumulation and transparency

(175) Pursuant to point 159 of the Aviation Guidelines, aid authorised under the Aviation Guidelines cannot be combined with other State aid, *de minimis* aid or other forms of EEA financing, if such a combination results in aid intensity higher than what is laid down therein.

(176) The Norwegian authorities have confirmed that the measure will not be cumulated with other State aid, *de minimis* aid, or other forms of EEA financing for the same investment and project costs for Avinor, in line with point 159 of the Aviation Guidelines (see above paragraph ((92)).

(177) Further, the Norwegian authorities have confirmed compliance with Section 8.2 of the Aviation Guidelines, as amended, as regards the transparency of the measure. The Norwegian authorities have confirmed that the aid award will be published in the national transparency register and that the conditions in Section 8.2 of the Aviation Guidelines will be adhered to. ESA therefore considers that the measure fulfils the transparency requirements in the Aviation Guidelines.

6.3.5 Balancing positive and negative effects of the aid

(178) For the aid to be compatible with the functioning of the EEA Agreement, the limited negative effects of the aid measure in terms of distortion of competition and adverse impact on trade between Contracting Parties must be outweighed by positive effects, in terms of contribution to the facilitation of the development of economic activities or areas. It must be verified that the aid does not adversely affect trading conditions to an extent contrary to the common interest.

(179) It is apparent from the above that the measure will have positive effects on the development of the region. The measure also has an incentive effect.

(180) At the same time, the manner in which the measure is set up minimises the potential distortion of competition that arises from it. In light of the distance to other airports and the difference in capacity, the potential negative effects on other airports are limited in principle (see Section 6.3.3 above). As also shown above, the measure is necessary, appropriate and proportionate (see Sections 6.3.3.2, 6.3.3.3 and 6.3.3.4 above). ESA considers that the negative effects on competition, to the extent that they exist, are limited.

(181) ESA concludes that the positive impact of the measure in developing the region outweighs any potential negative effects on competition and trade. On balance, the measure is in line with the objectives of Article 61(3)(c) of the EEA Agreement as it facilitates the development of airport activities and the development of the area of the new airport and, as such, the aid does not adversely affect competition to an extent contrary to the common interest.

7 Conclusion

(182) On the basis of the foregoing assessment, ESA considers that the measure constitutes State aid with the meaning of Article 61(1) of the EEA Agreement. Since ESA has no doubts that this aid is compatible with the functioning of the EEA Agreement, pursuant to its Article 61(3)(c), it has no objections to its implementation.

(183) The Norwegian authorities have confirmed that the notification does not contain any business secrets or other confidential information that should not be published.

For the EFTA Surveillance Authority, acting under Delegation Decision No 068/17/COL,

Yours faithfully,

Arne Røksund
President
Responsible College Member

Melpo-Menie Joséphidès
Countersigning as Director,
Legal and Executive Affairs

This document has been electronically authenticated by Arne Roeksund, Melpo-Menie Josephides.