



New State Aid Procedure Act in Norway



Line Voldstad
Partner, Head of Regulatory and
FPR (Norway)



Katrine Lillerud
Lead Lawyer

In 2014, the EU implemented a state aid reform that included both new substantive rules and guidelines, but also new rules for procedure (Regulation [2015/1589](#)). At that time, only the new substantive rules came into force in Norway. Although the regulation itself has still not been incorporated into the EEA Agreement, eight years late, Norway has taken into account several of the procedural amendments to the "new" [State Aid Procedure Act](#) in force on 1 January 2023. The amendment to the Aid Procedure Act means that the rules are in line with competition law and are intended to make it possible for the EFTA Surveillance Authority's (ESA) also in state aid cases to:

- initiating Dawn Raids and sector inquiries and,
- ask third parties for information and (new State aid Process Act Sections 8 and 11).

Section 8 stipulates that grantors, beneficiaries, other market participants and public authorities must on request submit information necessary to check compliance with the rules on state aid, and pursuant to section 11, ESA may carry out an on-site inspection of companies in the event of suspected unlawful aid. The system for dawn raids is parallel to the Competition Act, and it requires the Norwegian Competition Authority to submit a petition to secure evidence to the district court, and that ESA be assisted by Norwegian authorities when carrying out on-site inspections.

When the EU regulation from 2015 eventually is implemented in the EEA Agreement, there will probably be a need for further adjustments in the State Aid Processes Act. Regulation [2015/1589](#) also allows ESA to:

- impose fines for parties who do not cooperate and provide incorrect information to it, as well as
- introduce a mandatory form, like the European Commission has had since 2014, in the handling of complaints about possible illegal state aid from third parties, and
- to intervene before Norwegian courts as so-called *amicus curiae* also in state aid cases.

However, the right to intervene is already available to ESA without special procedural legislation through Section 15-8 of the Disputes Act, which provides for written submissions to clarify public interests within its area of responsibility. Similarly, the fact that it is the Norwegian Competition Authority that submits a petition to secure evidence in the event of a dawn raid will probably also give it the right to enforce a penalty for lack of cooperation, cf. Section 28 of the Competition Act.

Consequently, the totality of the changes that have been implemented is that the new State Aid Procedure Act now is largely harmonised with EU law – despite the fact that it is not ESA directly that is allowed to impose fines, etc., but that this is made possible via Norwegian authorities. It is also noted that the statute of limitations for the return of illegal aid is 3 years under the Norwegian limitations Act, while ESA has a 10-year statute of limitations; cf. Section 14 of the State Aid Procedure Act.

The State Aid Processes Act is supplemented by several regulations, which among other things implement EEA procedural rules, but these regulations are not yet available in Lovdata.

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