III

(Other acts)

EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY DECISION

No 35/17/COL

of 9 February 2017

granting Norway a derogation regarding the Ladehammeren urban waste water treatment plant in the agglomeration of Trondheim and repealing Decision No 725/07/COL [2017/2099]

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Act referred to at point 13 of Annex XX to the EEA Agreement,

Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment ([1])

As adapted to the EEA Agreement by Protocol 1 thereto and in particular Article 8(5) thereof,

Having regard to Decision 725/07/COL of the EFTA Surveillance Authority ('the Authority') to grant a derogation in accordance with Article 8(5) of Directive 91/271/EEC to Høvringen urban waste water treatment (Document No 452420),

Whereas:

(1) Article 8(5) of Directive 91/271/EEC provides that, in exceptional circumstances, where it can be demonstrated that more advanced treatment will not produce any environmental benefits, discharges into less sensitive areas of waste waters from agglomerations of more than 150 000 population equivalents may be subject to the treatment to the less stringent requirements set out in Article 6(2) of that Act,

(2) In such circumstances, the EFTA States are required to submit documentation to the Authority to demonstrate that the discharges receive at least primary treatment and that they will not adversely affect the environment,

(3) Norway has identified its coastal area from Lindesnes to the Norwegian-Russian border as a 'less sensitive area' under Article 6 of Directive 91/271/EEC,

(4) On 19 December 2007, in Decision 725/07/COL, the Authority accepted a request from Norway under Article 8(5) of Directive 91/271/EEC to provide for less stringent waste water treatment than that prescribed in Article 4 of Directive 91/271/EEC for the Høvringen waste water treatment plant, subject to the conditions set out in that decision,

(5) On 20 February 2010, a decision was taken by Trondheim City Council on behalf of Trondheim Municipality to apply for a derogation under Article 8(5) of Directive 91/271/EEC for the Ladehammeren waste water treatment plant and for coordinated treatment demands for both the Høvringen and Ladehammeren waste water treatment plants, defined as treatment as a reduction of the total suspended solids in the incoming waste water by at least 70 % or alternatively, a maximum suspended solid concentration of 60 mg/l combined with a reduction in biochemical oxygen demand of at least 20 %.

([1]) OJ L 135, 30.5.1991, p. 40.

(6) On 9 February 2012, the Authority met with representatives from the Ministry of the Environment and Trondheim municipality. At that meeting, a revision of the terms of the derogation for the Høvringen waste water treatment plant was discussed along with a request for a derogation under Article 8(5) of Directive 91/271/EEC concerning the discharges of urban waste water from the Ladehammeren waste water treatment plant in the agglomeration of Trondheim into the Trondheim's fjord.

(7) By letter dated 25 June 2012 (Document No 638245), the Authority sent a request to Norway asking it to provide more detailed information in support of the two derogation requests to allow the applications to be considered.

(8) On 9 November 2012 (Document No 653035) Norway replied to that request, providing various documents in support of its application.

(9) At the request of the Authority, Norway submitted additional information in support of the application on 28 January 2014 (Document No 697161), 29 January 2014 (Document No 697372), 29 October 2014 (Document No 728105), 12 January 2015 (Document No 734689), 16 January 2015 (Document No 741891), 8 April 2016 (Document No 799935) and 9 September 2016 (Document No 818158).

(10) The requirements for discharges from waste water treatment plants set in Directive 91/271/EEC focus on oxygen demand arising from degradation of dissolved and particulate organic matter supplied from land or by biological production.

(11) Trondheim fjord has a large capacity to decompose organic loads, given its large water depth, large water volume and efficient water exchange with the deep ocean area outside the fjord mouth, which ensures a regular supply of oxygen-rich Atlantic water from the Norwegian Sea.

(12) The sewage collection system in Trondheim is divided into two waste districts, Høvringen and Lade, which, between them, receive about 99 % of the city's waste water. Taking advantage of that hydrodynamic regime, the waste water outlets at both waste water treatment plants are constructed with a diffuser system for deep water release that provides safe entrapment of diluted waste water below the surface layer, preventing eutrophication processes to occur in the surface layer and in the deep water masses and sediments.

(13) The final treated effluent from the Høvringen waste water treatment plant is released on the west side of Trondheim bay, with the final treatment effluent from the Ladehammeren waste water treatment plant released on the east side of the Trondheim bay.

(14) The assessment carried out by the Authority demonstrates that, based on the design of the discharge pipes and on the monitoring undertaken, neither the discharge from the Høvringen nor the Ladehammeren waste water treatment plants appears to reach or impact on the biologically productive surface layer of Trondheim bay.

(15) Moreover, the results of water quality studies undertaken have demonstrated that the final treated effluent discharge from both the Høvringen and the Ladehammeren waste water treatment plants does not have a noticeable impact on water quality within Trondheim bay. There is no evidence that the waters of Trondheim Bay are suffering with eutrophication and no evidence that the final treated effluent discharge from either of the waste water treatment plants is impacting on the soft-bottom fauna.

(16) The technical assessment carried out by the Authority further shows that the results of bottom sediment studies that have identified heavy metal and organic pollutants do not appear to be linked to the final treated effluent discharge from either the Høvringen or Ladehammeren waste water treatment plants.

(17) Notwithstanding this, discharges from the waste water treatment plants contain heavy metals and organic micro-pollutants dissolved in the water or associated with particles in the effluents and the application of chemical and/or biological treatment would reduce to some degree the discharges of heavy metals and organic micro-pollutants.

(18) The Authority considers that, in line with the decision by Trondheim City Council of 20 February 2010, an appropriate treatment of the urban waste water should define treatment as a reduction of the total suspended solids in the incoming waste water by at least 70 % or alternatively, a maximum suspended solid concentration of 60 mg/l combined with a reduction in biochemical oxygen demand of at least 20 %.

(19) The overall technical assessment commissioned by the Authority concludes that the treated effluent from both the Høvringen and the Ladehammeren waste water treatment plants did not appear to have any measurable environmental impacts. The environmental modelling and modelling simulations of the impacts of secondary treatment at both waste water treatment plants compared with primary treatment have not demonstrated that more advanced treatment will produce any tangible environmental benefits beyond this.

(20) In its decision of 19 December 2007 granting an Article 8(5) derogation to the Høvringen urban waste water treatment plant, the Authority stipulated that the application of chemical and/or biological treatment at the Høvringen urban waste water treatment plant would reduce to some degree the discharges of heavy metals and organic micro-pollutants. One of the conditions of that decision was that the treatment of urban waste water from the plant should ensure a reduction of total suspended solids in the incoming waste water by at least 80 % before discharge and that there be a minimum percentage reduction in biochemical oxygen demand ([1]) of 20 %.

(21) Having analysed the results provided in respect of the Høvringen urban waste water treatment plant, the Authority found that these are insufficient to ensure compliance with the conditions attached to the 2007 derogation decision. As such, the Authority concludes that the conditions set out in its original decision of 19 December 2007 to grant a derogation have not been met. For this reason, the Authority considers that the derogation decision in respect of the Høvringen waste water treatment plant should be revoked.

(22) In accordance with the procedure laid down in Article 18(2) of Directive 91/271/EC, and as further prescribed for in the Decisions of the Standing Committee of the EFTA States No 3/2012/SC and 4/2012/SC of 26 October 2012, the Authority submitted a draft of the present decision to the EFTA Environment Committee by letter of 8 December 2016. In accordance with the Rules of Procedure of the Committee, the draft decision was deemed to have been approved on 26 January 2017.

(23) The College Member with special responsibility for environmental matters has been empowered ([2]), on behalf of the Authority and under its responsibility, to adopt the measures, if the draft measures to be adopted are, as in the present case, in accordance with the opinion delivered by the EFTA Environment Committee assisting the Authority.

HAS ADOPTED THIS DECISION:

1. The request by Norway under Article 8(5) of the Act referred to at point 13 of Annex XX to the EEA Agreement (*Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment*) to be permitted to provide, for the Ladehammeren waste water treatment plant in the agglomeration of Trondheim, less stringent waste water treatment than prescribed in Article 4 of that Act is accepted under the conditions set out in paragraphs 2 to 7 here below.

2. The urban waste water from the Ladehammeren waste water treatment plant in the agglomeration of Trondheim shall, prior to discharge in the receiving waters, be subject to the treatment set out in the Annex to this Decision no later than 31 December 2017.

3. A strategy to reduce the load of heavy metals and micro-pollutants to the sewage system and prevent further contamination of urban waste water by heavy metals and micro-pollutants shall be developed by 30 June 2017. The plan, which shall be monitored by the Norwegian competent authority shall include the obligation to:

   — carry out surveys and monitoring to identify potential sources of contamination and local polluters;

   — design action plans to terminate contamination from sources of contamination and local polluters;

   — apply countermeasures towards the polluters identified and to remove environmental pollutants at source.

4. The Authority's decision of 19 December 2007 (725/07/COL), to accept Norway's request for a derogation under Article 8(5) of Directive 91/271/EEC, is hereby revoked.

5. Acting in accordance with Article 15(3) of the Act, the Norwegian competent authority shall monitor and carry out all other relevant studies to verify that the discharge does not adversely affect the environment.

([1]) BOD 5 at 20 °C.
([2]) Decision No 17/94/COL of 23 September 1994 (Document No 624326).

6. Every two years, commencing on 31 January 2018, the Norwegian Government shall provide the Authority with a report containing the results of the monitoring carried out during the previous period, according to the provisions of paragraphs 3 and 4 here above, in particular concerning the measures taken to prevent the contamination of the sewage collecting system by heavy metals and micro-pollutants. The report shall also include explanations of any failure to meet the requirements of this Decision.

7. Following each reporting period referred to in paragraph 6, or whenever new developments occur, the Authority shall re-evaluate the situation and shall, if necessary, submit a proposal for a new decision to the EFTA Environment Committee assisting the Authority.

8. This Decision shall be published in the EEA Section of the *Official Journal of the European Union* and in the EEA Supplement.

9. The decision shall enter into force upon notification to Norway.

10. This Decision shall be authentic in the English language.

11. This Decision is addressed to Norway.

Done at Brussels, 9 February 2017.

For the EFTA Surveillance Authority

Helga JÓNSDÓTTIR	Carsten ZATSCHLER
College Member	*Director*

ANNEX

Requirements for the discharge from the Ladehammeren urban waste water treatment plant in the agglomeration of Trondheim

Parameter	Option 1	Option 2	
	Minimum Percentage Reduction (*)	Minimum Percentage Reduction (*)	Maximum Effluent Concentration (mg/l)
Biochemical oxygen demand (BOD 5 at 20 °C) without nitrification	N/A	20	N/A
Total suspended solids	70	N/A	60

(*) Reduction in relation to the concentration of raw (untreated) influent.