Grette

Doing Business in Norway

2020 Edition

Norway

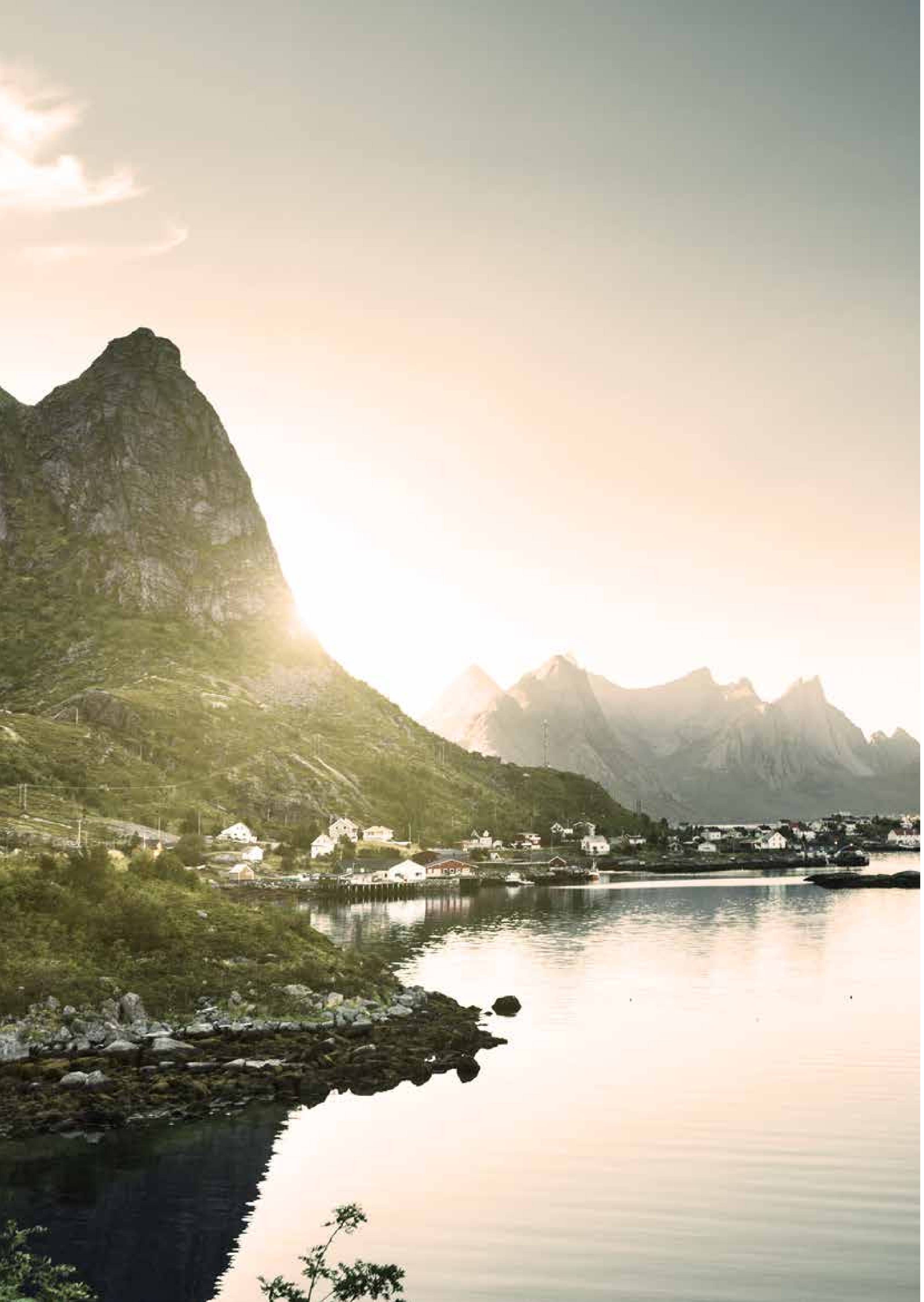
5.4 million Population
- 119th most populous country on earth

Constitutional monarchy Form of government
- Constitution day: 17 May
- Head of State: King Harald V
- Prime Minister: Erna Solberg, conservative
- Member of the EEA from 1 January 1994
- Member of the EU: No

Oslo Capital of Norway
- 5 regions
- Highest mountain: Galdhøpiggen 2,469 m.
- Largest lake: Mjøsa 365 sq.m.
- The distance from Oslo to Hammerfest is as far as from Oslo to Athens

Gross domestic product ca. NOK 3300 billion Economy
- Currency: Krone (NOK)
- GDP per capita: ca. NOK 615,000
- The largest source of income is the extraction and export of subsea oil and natural gas

ISBN 978-82-93788-00-3



Contents

Norway is known for nature attractions like fjords, mountains, northern lights and the midnight sun. Because of the Gulf Stream, Norway has a friendlier climate than the latitude indicates, leaving it with ice-free ports all year round. The Gulf Stream is a warm ocean current leading water from the Caribbean north easterly across the Atlantic Ocean, and then follows the Norwegian coast northwards.

I. Why invest in Norway

In spite of being a small nation, Norway is a highly developed and modern country with a very strong, open and buoyant economy. GDP per capita is the second highest in Europe and the fourth highest in the world, and forecasts show continuous growth. The unemployment rate is expected to be around 3,8%. The country's economy is mixed with free market activity and large state ownership. Diversity is welcome. A wide range of opportunities, stable political environment and excellent economic framework make the country very interesting and appealing to foreign investors. The IFC and World Bank's publication "Ease of Doing Business 2019" ranks Norway as 7th among the 190 countries listed.

Norway is not a member of the European Union (EU), but it is a member of the European Economic Area (EEA). This means that Norwegian companies have the same opportunities in Europe as the EU Member States. Industry and R&D institutions in Norway collaborate closely, and the country provides an excellent research and innovation system, government support schemes and global hubs. Intellectual property rights are very well protected. Norway participates fully in all EU research programmes and activities.

Its population of just over 5.4 million is highly educated, and the Norwegian authorities are committed to maintaining and enhancing innovation and knowledge-intensive industries. Some world-class industries have been established, primarily in the oil and gas, maritime and seafood sectors. Important knowledge industries are the finance industry, the ICT industry and knowledge-based services. Some emerging industries such as medtech, cleantech and biotechnology can also be added to the mix.

Productivity in Norway is much higher than the average of the EU, partly because the high labour costs encourages use of advanced technology and focus on productivity. The extra value from the oil sector is also a factor, together with flat structures, open communication and trust. Norway was the 11th most competitive country in the world according to the World Competitiveness Scoreboard from IMD in 2019.

If you combine this with with good work/private life balance, stunning countryside and excellent infrastructure, all the factors above make Norway an exciting choice for foreign investors. As Norway is a member of the EEA, a large number of Norwegian laws are harmonised with EU laws. However, there remains a huge variety of national laws which are either not fully governed by the EEA Agreement or are not fully harmonised for other reasons. For example, in Norwegian civil law, certain areas such as consumer protection law and commercial agency law are harmonised with, or even based on, European law, whereas other areas are still purely national law. The latter also applies to Norwegian tax law.

This guide to "Doing Business in Norway" aims to provide an introduction to various legal aspects which we suggest foreign enterprises should be aware of before entering the Norwegian market. Furthermore, this guide may be of help to foreign enterprises that have already established ongoing business activities in Norway.

Oslo, January 2020
Yours sincerely,

Jacob S. Bjønness-Jacobsen
Managing Partner

II. Civil Law

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1. Civil Law System

The Norwegian civil law system is based on a collection of written laws. However, unlike Germany or France, there is no general civil law book which consolidates legislation specific to civil law.

All Norwegian written laws, whether relating to civil, criminal or public law, are collated privately by the University of Oslo in the collection 'Laws of Norway' (Norges Lover). Despite being privately published, this collection is used in all courts of law. A revised collection is published annually and a continually-updated version is available online (www.lovdata.no). The laws are organised in chronological order starting with the oldest law and ending with the newest law.

One fundamental law in Norwegian civil law is the Norwegian Contracts Act of 1918, which regulates the rules regarding offer and acceptance when entering into a contract. As a rule, there are no requirements regarding the form of the contract, and thus both oral and written contracts are considered to be binding in Norway. There is no need for notarisation of contracts, and only a very few contracts require written form or certification of the signatories' signatures.

Norwegian law also relies quite heavily on legal precedent as set by the judgments of the courts of law, especially the Norwegian Supreme Court. However, the application of precedent is not identical to that of the common law countries. Norwegian Supreme Court judgments are used as guidance in order to find the correct interpretation of the laws.

2. Contracts for the international sale of goods

The United Nations Convention on Contracts for the International Sale of Goods (CISG) has been in effect in Norway since 1 August 1989. The CISG applies to international sales of goods. It is worth noting that Norway has filed a declaration under Article 94. The Article 94 declaration means that the CISG as a whole does not apply to the sale of goods between parties resident in Norway, Denmark, Finland, Iceland or Sweden.

The UNIDROIT principles have been the subject of considerable attention in Norwegian academic and commercial circles. However, the UNIDROIT principles have not played a significant part in the premises of the judgements by the Norwegian Supreme Court.

3. Commercial agency contracts

The Norwegian Agency Act of 1992 regulates commercial agency contracts in order to protect the interests of the commercial agent against the principal. The parties cannot enter into a commercial agency contract that binds the commercial agent to a less favourable agreement than that which follows from the Norwegian Agency Act. It is not possible to enforce a contract which favours the principal more than is permitted by the Norwegian Agency Act.

The most important rule under the Norwegian Agency Act is that the commercial agent may claim compensation from the principal upon termination of the contract. The size of such compensation must be calculated on the basis of new customers and increased business won from the commercial agent's activities. However, the compensation is limited to the average of one annual commission over the past five years.

In line with other European countries, the Norwegian laws regarding commercial agents are based on EU directives implemented by the EEA Agreement. The Norwegian Agency Act – including, for example the rule on compensation becoming due upon termination of the contract – is, therefore, similar to rules in other EU/EEA member countries.

4. Construction contracts

4.1 Norwegian construction contracts

Norwegian Standard (NS) contracts provide standard sets of terms and conditions. NS contracts are initiated and prepared by a committee consisting of experts appointed by interest groups, and then approved and published by Standards Norway, the Norwegian member of ISO (International Organization for Standardization) and CEN (Comité Européen de Normalisation). While for the most part ISO has developed technical standardisations, Standards Norway has mainly developed standards for the real property, construction and electronics industries.

All NS carry a number beginning with "NS" such as NS 8405 which is the most common and basic construction contract containing legal terms and conditions, together with the simplified version NS 8406 and the EPC contract (Engineering, Procurement and Construction) NS 8407. Also, corresponding sub-contracts have been prepared for each of the mentioned NS contracts, named NS 8415, NS 8416 and NS 8417. However, certain standard documents containing technical specifications carry other identification numbers including numbers which are used Europe-wide.

Nidelva in Trondheim.

Of the technical standards, NS 3420 is of special importance, and referred to in the majority of Norwegian projects. It provides specification texts for a number of different buildings, construction and installation works, and is used together with a NS standard contract providing legal terms and conditions, such as the mentioned NS 8405, NS 8406 and NS 8407.

However, NS is merely a proposed solution for the contracting parties, and making it a part of the contract, either through a simple reference or by inclusion of the text, is optional. Even though the incorporation of NS in a contract is optional, NS are commonly used and looked upon as agreed documents. Furthermore, NS often refers to relevant EU directives, national laws and regulations, and provides a more detailed description of these. One purpose of NS is to contribute to making products, production processes and services more expedient and secure.

4.2 Norwegian offshore contracts
In the Norwegian offshore industry, various standard contracts for different purposes are available.

Norwegian Fabrication (NF) contracts contain standard terms and conditions for the fabrication and production of large components, mainly for the petroleum industry on the Norwegian continental shelf. NF contracts are comprehensive documents and are revised periodically. The current contract is from 2015 (NF 15) and is an agreed document negotiated by the organisations Norsk Olje og gass and Norsk Industri. NF contracts are intended to provide continuous improvement in safety, health and environment and increased added value in the Norwegian petroleum industry.

The Norwegian Total (NTK) contract is a similar standard contract, developed and negotiated by the same parties as NF 15 and intended for the use in respect of deliveries that include engineering, procurement, construction and installation (EPC(I)) - Engineering, Procurement, Construction (Installation)) for the Norwegian continental shelf. The current contract is from 2015 (NTK 2015). In addition, the parties have developed two versions of the NTK 2015 Modul & Modification contract which are the version for modifications with single delivery of the entire contract object and the version for modifications with separate delivery of module, prefabricated items and offshore permanent works.

In addition, standard terms and conditions have been developed for contracting within the subsea segment (NSC 05) and the supply of machinery and other mechanical, electrical and electronic equipment (NL 17).

The Norwegian Subsea Contract 05 (NSC 05) is a set of standard conditions developed for contracting within the subsea segment on the Norwegian continental shelf. The intended application of the NSC 05 is contracts for marine operations such as installation of pipelines, cables, umbilicals and other subsea structures as well as related subsea construction work where the use of vessels is involved. The standard captures both contracts containing only installations, as well as full EPC(I) type contracts and addresses specific risks in connection with subsea work and the operation of vessels.

The General Conditions for the Supply of Machinery and other Mechanical, Electrical and Electronic Equipment in Denmark, Finland, Norway and Sweden (NL 17) were issued in 2017 and are also used by suppliers of components to the offshore industry. The NL 17 replaces the earlier NL 09 and is based on the terms and conditions developed by ORGALIME, the European Engineering Industries Association. If the assembling work is a major part of the delivery, the related standard terms and conditions NLM 19 - General Conditions for the Supply and Erection of Machinery and other Mechanical, Electrical and Electronic Equipment are recommended.

5. Consumer protection

5.1 Consumer protection laws
There are several rules aimed at strengthening consumer rights and protection in various sources of law in Norway. The most important rules are contained in the Norwegian Right of Withdrawal Act of 2014, the Norwegian Marketing Practice Act of 2009, the Norwegian Trade and Craft Service for Consumers Act of 1989, the Norwegian Housing Construction Act of 1997, the Norwegian Alienation Act of 1992, the Norwegian Tenancy Act of 1999 and the Norwegian Consumer Purchase Act of 2002.

The consumer protection laws are all in accordance with various EU directives regarding consumer rights. These consumer rights should therefore not differ significantly from the consumer protection laws and regulations in other EU/EEA member countries. One notable difference, however, is the five-year warranty period under the Norwegian Consumer Purchase Act which applies to all goods made for a lifetime significantly longer than two years. The lifetime of products must be assessed individually. However, most consumer electronics, including mobile phones, are covered by the five-year warranty period. For products with a shorter expected lifetime, a warranty period of two years applies, similar to other European jurisdictions.

Consumers can forward complaints regarding consumer affairs to the Norwegian Consumer Council and the Norwegian Market Council, which amongst other things can intervene and pass judgment in some consumer-related cases. This allows consumers to resolve their disputes more simply than going through the courts of law.

5.2 Consumer Purchase Act
The Norwegian Consumer Purchase Act, like the Norwegian Sale of Goods Act, consists of regulations regarding the sale and purchase of goods. Whilst the Norwegian Sale of Goods Act regulates purchases between any private parties, the Norwegian Consumer Purchase Act regulates purchases where the buyer is a consumer and the seller, or his representative, functions as a professional commercial seller.

The Norwegian Sale of Goods Act is designed to meet the needs of sales and purchases in the business world, and was not designed for consumer purchases. Hence the Norwegian Consumer Purchase Act was the result of a need for a set of rules that would provide adequate protection for consumers in particular.

The Norwegian Consumer Purchase Act, like the Norwegian Sale of Goods Act, consists of regulations regarding the sale and purchase of goods.

The legislation in both laws is for the most part similar. However, the Norwegian Consumer Purchase Act generally has lower thresholds and more lenient terms and conditions when it comes to the type of claims a consumer can make due to breach of contract by the seller. The Norwegian Consumer Purchase Act is also mandatory, which means that the parties cannot agree to terms that would be less favourable to the consumer than those contained in the act.

6. Statute of limitation

In Norway, like most other jurisdictions, claims fall under the statute of limitation and, thus become time-barred at the expiration of the applicable limitation period. Pursuant to the Norwegian Statute of Limitation Act of 1979, the general limitation period is three years.

The general limitation period commences on the day on which the creditor is first entitled to demand performance. In the event of claims for compensation due to any breach of contractual obligations, the general limitation period commences on the day on which such a breach occurs. With regard to claims which had not been asserted due to the fact that the creditor lacked necessary knowledge of the claim or the debtor, such claims are subject to an additional limitation period of one year. The additional limitation period shall commence on the day on which the creditor first obtained, or should have obtained, knowledge of the claim and the debtor. However, such additional limitation period of one year shall not lead to the general limitation period being prolonged for more than 10 years. As a result, any such claim becomes time-barred at the very latest 13 years from the commencement of the general limitation period.

In addition to the general limitation period of three years, there are specific limitation periods provided for by other laws. Furthermore, as to the general limitation period, the parties may agree to a limitation period shorter than three years and, after the claim has arisen, to prolong the limitation period by up to additional 10 years.

The statute of limitation may be interrupted by acknowledgement of the claim by the debtor or by initiating legal proceedings against the debtor. Unlike other jurisdictions, negotiations between the parties to the claim are not sufficient.

Even if a claim has not become time-barred, the claim may no longer be asserted if the period within which the counterparty must be notified of the claim, has expired. Such notification

periods may be agreed upon by the parties or are provided by law. An example of such notification periods is the warranty periods under the Norwegian Consumer Purchase Act.

With regard to contracts on the international sale of goods, it is worth noting that the Convention on the Limitation Period in the International Sale of Goods – which provides for a limitation period of four years – applies if, at the time of the conclusion of the contract, the places of business of the parties are in contracting states. Norway is party to such convention. However, Norway is not party to the amendments of the protocol adopted in 1980, which provide that the convention also applies if the rules of private international law make the law of a contracting state applicable to the contract. Furthermore, the convention does not apply to contracts concluded by parties with places of business in Denmark, Finland, Iceland, Norway and Sweden.

7. Acquisition restrictions

7.1 General

There are no general restrictions regarding foreigners acquiring shares and interests in Norwegian companies and partnerships (share deals), or assets of Norwegian businesses (asset deals). However, some restrictions may apply due to the Norwegian Competition Act of 2004 and the Norwegian Security Act of 2018.

In addition, there are also certain restrictions on acquiring real property, which are regulated by the Norwegian General Concession Act of 2003.

Finally, there are certain rules on ownership restrictions in the financial sector and in the hydropower industry, which contain restrictions on the acquisition of shares and assets within these areas, as well as approval requirements for the transfer of participating interests in petroleum licences.

7.2 Competition Act

The substantive law on merger control in the Norwegian Competition Act is modelled after the EU Merger Regulation (Council Regulation 139/2004), and the EU system incorporated into the EEA Agreement. Thus, several of the key concepts in the Norwegian merger control law mirror the similar notions of the EU Merger Regulation, such as the concept of a concentration, undertakings concerned and control. Moreover, key procedural aspects are also the same, such as a Phase I of 25 working days, the framework for remedies and the interpretation of the standstill provision. In addition, the substantive intervention threshold is the same.

A concentration must be notified to the Norwegian Competition Authority if two cumulative conditions are met:

- the undertakings concerned have a combined annual turnover in Norway above NOK 1,000,000,000

- at least two of the undertakings concerned each have an annual turnover in Norway above NOK 100,000,000

However, a Form CO filing to the European Commission covers also Norway pursuant to one-stop-shop. An exception is for effects in Norway for products not covered by the EEA Agreement.

The Norwegian Competition Authority may also intervene against concentrations below these thresholds and against acquisitions of non-controlling minority shareholdings. However, in such events, the case handling needs to be triggered by an individual request from the Norwegian Competition Authority for a notification. The Norwegian Competition Authority's right to intervene expires unless it has requested a notification no later than three months after signing the transaction agreement or closing of the transaction.

The substantive threshold for an intervention states that the Norwegian Competition Authority shall intervene against a concentration if it finds that the concentration will create or strengthen a significant restriction of competition in Norway. This test is to be applied and understood in line with the framework of the European Commission's 2004 guidelines on the assessment of horizontal mergers, and the 2008 guidelines on the assessment of non-horizontal mergers.

Norwegian merger control procedures consist, in addition to a voluntary pre-notification procedure, of phase I and phase II.
Phase I: phase I is 25 working days as of filing of the notification. The 25 working days' deadline will be extended by 10 working days if remedies are proposed within 20 working days. More than 90% of the notified concentrations are approved in phase I. Phase II will only be initiated if the Norwegian Competition Authority identifies a theory of harm in phase I. Phase II will be initiated by way of a short letter from the Norwegian Competition Authority.

Phase II: In phase II, the Norwegian Competition Authority has 70 working days as from filing of the notification to adopt a statement of objections, or a decision approving the concentration with remedies, as applicable. If the parties propose remedies after 55 working days following the notification, the 70 working days' deadline will be extended accordingly, but by no more than 15 working days. Upon adoption of a statement of objections, the parties have 15 working days to comment. Subsequently, the Norwegian Competition Authority has 15 working days to adopt a final decision. If the parties submit remedies after adoption of a statement of objections, the Norwegian Competition Authority's deadline can be extended by 15 working days. Finally, the deadline can be extended by an additional 15 working days at the parties' request.

A pre-notification dialogue is voluntary, but is recommended in cases that are more complex.

People celebrating the national day in front of the Royal Palace in Oslo.

The Norwegian Competition Act includes a standstill provision mirroring that of the EU Merger Regulation. Breaches of the provision can trigger administrative fines, capped at 10% of global turnover. Administrative fines for breach of the standstill provision are not uncommon. Such fines are usually in the range from NOK 200,000 to NOK 500,000. However, in one exceptional case, the Norwegian Competition Authority adopted a fine of NOK 25,000,000.

The Norwegian Competition Act also contains provisions on cartels and the abuse of dominant positions. In this respect, the Norwegian provisions mirror the EU and EEA provisions (articles 101 and 102 of the TFEU / articles 53 and 54 of the EEA Agreement). Norway has adopted a leniency programme that may allow for full immunity or partial reduction in fines to companies that co-operate with the Norwegian Competition Authority in revealing illegal cartels. For example, a company participating in a cartel will, under certain conditions, be entitled to full immunity from fines if it provides the Norwegian Competition Authority with sufficient evidence of the other company's participation in the cartel.

7.3 Security Act
As a rule, the Norwegian governmental authorities will not intervene against the acquisition of shares and interests in Norwegian companies and partnerships (share deals) or assets of Norwegian businesses (asset deals) by foreigners. However, the Norwegian Security Act contains certain restrictions on such foreign investments.

If share deals by means of which at least one third of the shares, interests or voting rights in a target, which qualifies as being important to the national security of Norway are acquired, this must be notified to the relevant governmental department or to the Norwegian Security Authority. Unlike notification for the purpose of merger control, the filing of a notification under the Norwegian Security Act is not subject to any turnover of the target in Norway. Further, acquisitions by foreigners from EU/EEA member countries are also subject to the notification requirement. The governmental departments and the Norwegian Security Authority can at any time, and at their sole discretion, decide upon any target qualifying as being important to the national security of Norway.

Norwegian procedures under the Norwegian Security Act consist of phase I and phase II.

Phase I: phase I is 60 working days as of filing of the notification. The 60 working days' deadline will be set on-hold if the relevant governmental department or the Norwegian Security Authority, within 50 working days, has requested additional information until this information has been provided. If the relevant governmental department or the Norwegian Security Authority does not consider the acquisition to be a potential threat to the national security of Norway, it will clear the acquisition and notify the purchaser of such clearance. If a potential threat is perceived, it will submit the acquisition to the Norwegian government for a final decision.

Phase II: After phase I, the Norwegian government may allow the transaction, make the acquisition subject to certain conditions, or may even prohibit the acquisition. The Norwegian Security Act does not provide any deadline within which the government has to make such a decision.

Asset deals can also be prohibited if they are a threat to the national security of Norway. However, in this respect, the Norwegian Security Act does not provide any further specific rules. Therefore, asset deals are not subject to the notification requirement which is applicable to share deals only.

7.4 General Concession Act
The purpose of the Norwegian General Concession Act is to regulate and control the acquisition of real estate in order to preserve agricultural areas and maintain an ownership structure which will preserve the needs of future generations, the agricultural industry, the environment and land for development, and also help maintain the population in rural Norway.

In principle, all acquisitions of real estate require a concession. However, a general exemption exists for real estate which is built upon and which is smaller than 10 ha with less than 3.5 ha of cultivated land. It should be noted, however, that local municipalities may impose a requirement for the dwelling to be a permanent residence, in order to prevent houses being used solely as holiday homes.

37% of Norway's area is covered by forest, and nearly half of this is considered as productive forest. Untouched virgin forest hardly exists in Norway today, but in patches there is forest that is barely touched by human intervention. It is estmated that the forest houses half of the approx. 60,000 species of plants and animals in Norway.

III. Business Entities

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1. Limited liability companies

1.1 General

In Norway, limited liability companies may be incorporated either as a private limited liability company (aksjeselskap – AS) or a public limited liability company (allmennaksjeselskap – ASA). The AS can be compared to the UK private limited liability company and the German Gesellschaft mit beschränkter Haftung (GmbH), and the Norwegian ASA can be compared to the UK public limited company and the German Aktiengesellschaft (AG). As with their UK and German counterparts, the major difference between the AS and the ASA is that only the ASA may be listed on a stock exchange and thus have access to the general capital market. Both the AS and the ASA are companies where none of the shareholders has personal liability for the obligations of the company.

The AS and the ASA are regulated by two separate laws, which are the Norwegian Private Limited Liability Companies Act of 1997 for the AS, and the Norwegian Public Limited Companies Act of 1997 for the ASA. The two laws have a similar structure and the contents of both laws are largely identical.

1.2 Equity

The minimum share capital of an AS is NOK 30,000, while the minimum share capital of an ASA is NOK 1,000,000.

The entire share capital may be held by one single shareholder. After the contributions to the minimum share capital have been made, the share capital may be used by the board of directors and the managing director of the company at their sole discretion. Thus, in the event of a cash contribution to the bank account of the company, the cash may be used instead of keeping it in the bank account.

Different classes of shares with different rights can be established in the articles of association. However, the default situation is that there are no different classes of shares and hence all shares are equal, i.e. they carry equal rights and have the same nominal value.

Change of ownership of shares in an AS, which has been incorporated as from 1 January 1999, requires the consent of the company unless it is specified in the articles of association that the shares are freely transferable. The company's consent is given by the board of directors but consent may only be withheld on reasonable grounds, and on grounds set out in the articles of association. The other shareholders of an AS also have the right of first refusal upon any transfer of shares unless otherwise specified in the articles of association. However, with regard to the ASA, and an AS which has been incorporated prior to 1 January 1999, the shares in the company are freely transferable unless there are restrictions specified in the articles of association.

1.3 Board of directors

The AS must have a board of directors consisting of a minimum of one board member elected by the general meeting. The articles of association may state the number of members of the board of directors, or state the lowest and highest number of members.

The ASA must always have at least three members of the board of directors, and if the company has a corporate assembly, the board must have at least five members. Much international attention has been focused on the requirement in Norway for each gender to be represented by at least 40% of the members of the board of directors of an ASA. The requirement is therefore gender-neutral but in effect has required an increased number of female board members.

In both the AS and the ASA with more than 30 employees, the employees are entitled to elect between one and up to one third of the members of the board from among the employees. The exact number depends on the number of employees in the company. The employee board members have the same voting rights as the other board members.

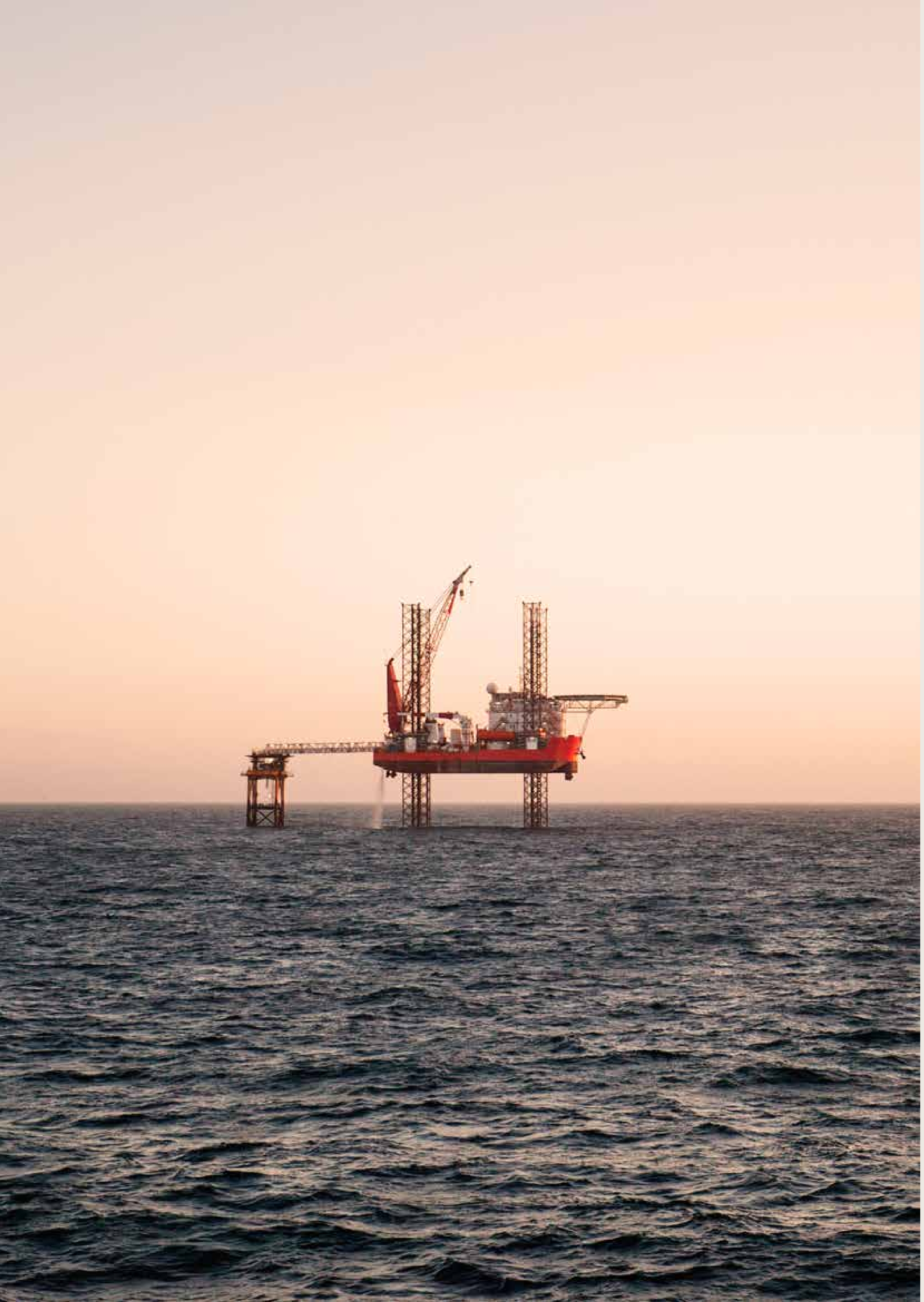
At least one half of the members of the board of directors must be Norwegian residents or be citizens of, and with their residential address in, an EU/EEA member country.

1.4 Corporate assembly

Companies with more than 200 employees are required to have a corporate assembly unless the company and a majority of the employees agree not to have one. If such companies do not have a corporate assembly, the employees are entitled to an additional member of the board in addition to those already allocated to the employees by law. Two thirds of the members of the corporate assembly are elected by the general meeting and one third by the employees.

The corporate assembly has responsibilities as specifically set forth by, or assigned to the corporate assembly pursuant to, applicable law. These responsibilities include electing the members of the board of directors as well as supervising the management of the company by the board of directors and the managing director.

Norway's long coastline provides the country with some of the richest fishing resources in the world. The country is the world's largest producer and exporter of salmon and trout, and is second only to China when in comes to export of fish and fish products in general. The west coast of Norway has unique natural advantages, traditions and industry, and the majority of Norway's large fish farming companies are based here. The region's marine industry is involved in the catching, breeding, processing and exporting of fish, and there are also manufacturers of equipment and feed as well as research institutions here.



Norway is one of the world's major oil and gas exporters. The state regulates the sector effectively and has created a competitive environment for operating companies, which includes Statoil, a partially state-owned company, as well as private enterprises.

1.5 Management
The board of directors is responsible for supervising the management of the company. However, the day-to-day management is the responsibility of the managing director. Only the ASA is required to have a managing director to be appointed by the board of directors. In an AS, the company may elect not to have a managing director. If the company chooses not to have a managing director, the board of directors is responsible for the duties for which the managing director otherwise is responsible. The managing director must be resident in Norway or be a citizen of, and with a residential address in, an EU/EEA member country. Under Norwegian law, managing directors qualify as employees.

1.6 General meeting
The shareholders of both the AS and the ASA are represented in the general meeting. Resolutions by the general meeting are passed by a majority of the votes cast, unless otherwise provided for by law or in the articles of association. There are no quorum requirements for a general meeting which has been correctly called. Resolutions to amend the articles of association, however, require a majority of at least two thirds of the votes cast.

Shareholders representing at least 10% of the share capital in an AS, and at least 5% of the share capital in an ASA, may demand that the board of directors calls an extraordinary general meeting. All shareholders have the right to propose matters to be dealt with at the general meeting, and the board of directors is required to include all such matters on the agenda. Further, in an AS, if all shareholders agree, extraordinary general meetings may be held without having been called by the board of directors. Resolutions that are passed by the general meeting are legally binding on the company.

1.7 Reporting requirements
As a rule, both the AS and the ASA are required to have an auditor. Annual accounts for the company must be prepared and audited and then approved by the ordinary general meeting within 6 months following the end of the business year. The approved annual accounts must be filed with the Norwegian Register of Company Accounts.

However, if an AS qualifies as a small company, the AS may waive the requirement of having the annual accounts audited. In order to qualify as a small company, the AS must have, as a rule, an annual turnover of less than NOK 6,000,000, a balance sheet total of less than NOK 23,000,000 and no more than 10 employees. The waiver becomes effective upon registration in the Norwegian Register of Business Enterprises. If any of the above conditions are no longer met in a business year, the AS will have the annual accounts for the subsequent business year to be audited.

1.8 Incorporation
The typical Norwegian subsidiary of foreign enterprises is the AS. The incorporation of an AS is relatively simple. The subscribers to the shares of the new company must draft a memorandum of association which also contains the articles of association. In addition, further information such as the shareholders, the members of the board of directors and the price payable for each share must be included. Furthermore, in the event of incorporation by means of contributions in kind, an opening balance sheet must be prepared by the subscribers and confirmed by an auditor. Finally, a declaration from an auditor or, in the event of cash contributions, a financial institution confirming payment of the share capital contribution must be attached.

Both the AS and the ASA may be incorporated using cash or non-cash share contributions. However, non-cash contributions require the preparation of a report confirming the value of the assets. For the incorporation of an AS, this report may be prepared by the subscribers and then confirmed by an auditor. For the incorporation of an ASA, the report must be prepared by independent experts.

If members of the board of directors or the managing director are to include foreign nationals, then these persons must apply for a D-number. A D-number is a registration number for foreign nationals in Norway, who are not registered in the Norwegian National Register, and therefore have not been assigned a Norwegian national identification number.

Both the AS and the ASA must be registered with the Norwegian Register of Business Enterprises. When filing for registration, the memorandum of association, which also contains the articles of association, must be included. Third parties may request copies of the articles of association. Therefore, it might be advisable for the articles of association to contain basic provisions only, whilst any other rules are set out in a shareholders' agreement which does not have to be filed with the Norwegian Register of Business Enterprises.

Certain information on Norwegian companies – and partnerships – is available on the Norwegian Register of Business Enterprises website (http://www.brreg.no). However, such information does not replace the official register extracts which are only available in writing and, thus, must be ordered from the Norwegian Register of Business Enterprises.

1.9 Listed companies
Changes in ownership of shares in an ASA listed on a Norwegian regulated market, such as the Oslo Stock Exchange, must be notified to the Norwegian Financial Supervisory Authority whenever a person's shareholding exceeds or falls below 5%, 10%, 15%, 20%, 25%, one third, 50%, two thirds or 90%.

Any person who acquires shares representing more than one third of the voting rights in an ASA listed on a Norwegian regulated market is obliged to make a bid for the remaining shares of the company.

Much of Norway's economy depends on the use of its natural resource base. For this reason, Norway is dependent on governmental regulation in order to balance economic and environmental interests. The country is rich in natural resources, including oil and gas, hydropower, fish, forests and some minerals. The development of the hydroelectric energy sector at the beginning of the 20th century triggered industrial growth, particularly within the aluminium and ferroalloy industry, and fertilizer production. The discovery of large reserves of oil and gas in the late 1960s, gave further boost to the economy. Norway is the third largest shipping nation in the world, and aquaculture is the second largest export industry. Other important sectors include oceanic fisheries and forestry.

2. Partnerships

2.1 General
Business activity may also be organised as a partnership. Partnerships are regulated by the Norwegian Partnerships Act of 1985. The Norwegian Partnerships Act defines a partnership as a commercial business which is conducted for the joint account and at the risk of two or more partners where the obligations of the partners together constitute the total obligations of the business, or where at least one has unlimited personal liability for the total obligations of the business.

2.2 General partnerships
The general partnership is distinguished by the partners being jointly and severally liable for all the obligations of the partnership. Creditors must first seek payment from the partnership, but may then pursue individual partners for any outstanding amounts. There is no equity requirement for the formation of a general partnership.

The partnership meeting is the highest authority of the partnership. There is no requirement for the general partnership to have a board of directors or a managing director. Should the partners decide to have a board of directors or a managing director, the Norwegian Partnerships Act contains rules for their organisation. All the partners are authorised to sign on behalf of the company unless otherwise stipulated in the partnership agreement or where there is a board of directors. All partners are eligible to vote at the partnership meeting, and all decisions must be unanimous, unless the partnership agreement provides for otherwise.

Harbour in Oslo.

As a rule, a general partnership is not required to undergo annual audits unless the general partnership has annual sales revenue of more than NOK 5,000,000. General partnerships which have annual sales revenue of more than NOK 5,000,000 have full accounting obligations including the preparation of annual accounts.

General partnerships must be registered with the Norwegian Register of Business Enterprises. When filing for registration, the partnership agreement must be included. Third parties may request copies of the partnership agreement.

2.3 General partnerships with proportional liability
The basic structure of a general partnership with proportional liability is identical to that of the general partnership. However, the general partnership with proportional liability is distinguished by the fact that the partnership's creditors can only hold each partner liable for a proportional share of the total obligations of the partnership. The apportionment of liability must be set forth in the partnership agreement and in order to be binding in relation to third parties, the partnership agreement must have been filed with the Norwegian Register of Business Enterprises.

2.4 Limited partnerships
The limited partnership is distinguished by having one or more general partners with unlimited personal liability and one or more limited partners whose liability is limited to a set amount. As with general partnership, the limited partnership is regulated by the Norwegian Partnerships Act, but with certain amendments.

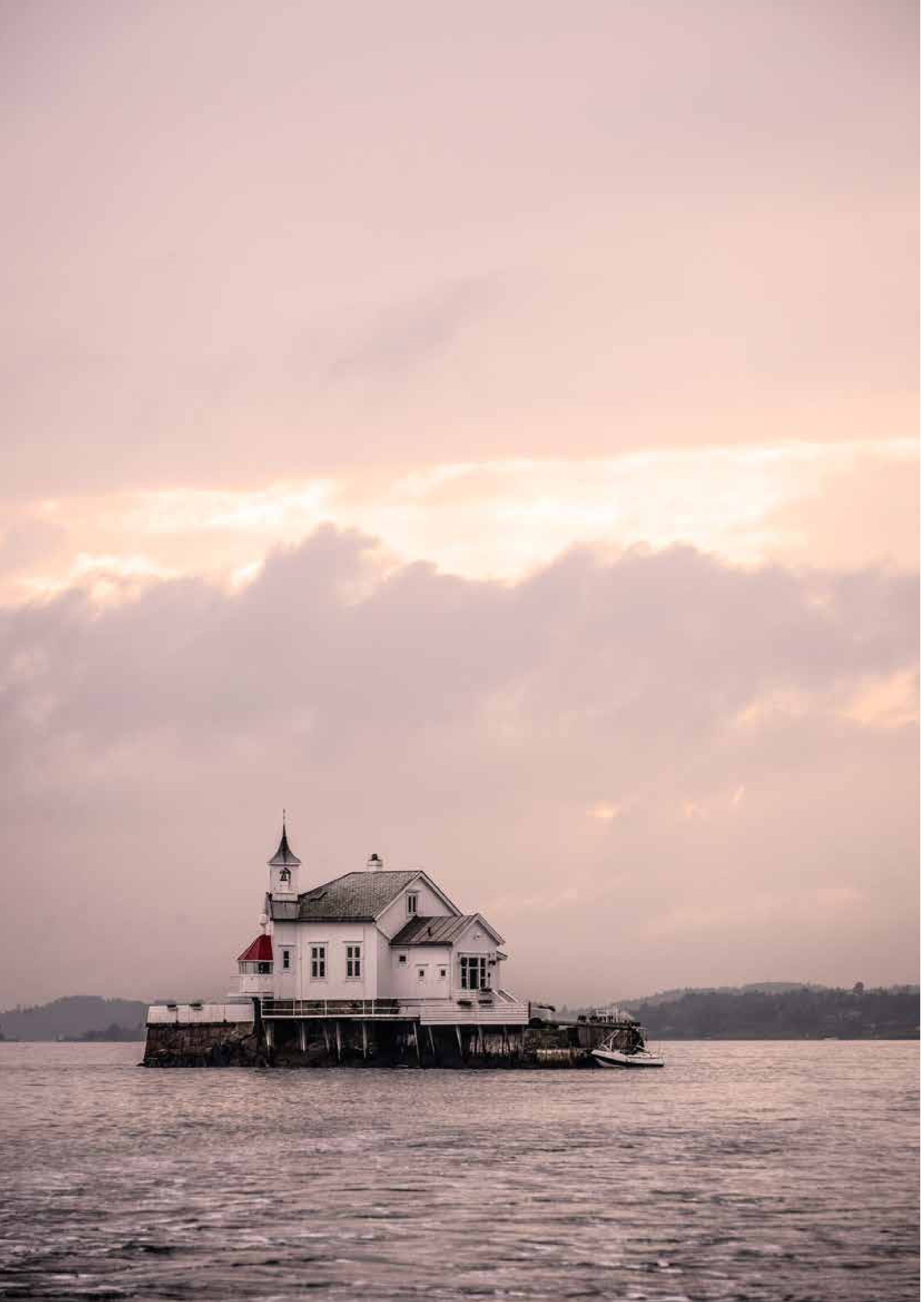
Unlike Germany, for example, the general partners must commit to pay at least 10% of the partnership capital. The partnership meeting is the highest authority of the partnership. However, only the general partners are responsible for the management of the partnership.

3. Norwegian branch of a foreign company

Foreign companies may operate in Norway as a Norwegian-registered foreign branch (Norskregistrert Utenlandsk Foretak – NUF). The branch must be registered as an NUF in the Norwegian Register of Business Enterprises. However, the branch is not a separate legal entity from the foreign company. Therefore, any legal acts such as the conclusion of any contracts are – in legal terms – executed by the foreign company itself.

There has been a boom in Norwegians establishing a UK limited liability company with a share capital of GBP one and then operating in Norway as a NUF. This practice has been common amongst less serious actors and has given the NUF a somewhat tarnished reputation in Norway. However, there are also major international companies operating in Norway as NUFs.

Norway is safe and relatively easy country in which to do business. According to the publication "Ease of Doing Business 2018" from the IFC and World Bank, Norway ranks 7th among the 190 countries listed.



IV. Acquisition Finance

IV. Acquisition Finance

1. General

1.1 Acquisition methods
The main methods for acquiring business entities in Norway are through share acquisitions, asset acquisitions, or mergers. Acquiring companies by way of purchase of shares is often preferred due to the tax exemption for capital gains on shares.

1.2 Financing sources
The most common source of acquisition financing is loans provided by banks and financial institutions, however, the total financing package often consists of an equity element and (subordinated) vendor notes as well. Bank loan agreements are usually prepared by the lenders' counsel and based on standard documentation prepared by the Loan Market Association – with certain adjustments to incorporate applicable requirements under Norwegian law. These loan agreements are, as a rule, drafted in English, but are typically less extensive than for example English law governed agreements.

Although most acquisitions are funded by bank debt, Norway also has an active high-yield bond market. Due to certain statutory limitations on financial assistance, Norwegian bond issues have historically, in an acquisition context, most commonly been used as a financing source in the real estate sector, as there previously were certain exceptions that only applied to property pledges provided by single purpose real estate companies. Nordic Trustee AS acts as trustee for substantially all Norwegian bond issues, and their template agreements are therefore considered to be market standard in the Norwegian bond market. Accordingly, any changes to the template bond agreements are usually limited to what is necessary to incorporate commercially agreed conditions in the term sheets. As is the case for bank loan agreements, Norwegian bond agreements are usually drafted in English.

2. Security agents

Security agents which hold security on behalf of the secured parties, are frequently used in syndicated bank loans. Banks and financial institutions often operate as both a transaction party and a security agent. In Norwegian bond issues, the trustee will act as a security agent as well. Generally, security agents in syndicated deals do not have a standing before Norwegian courts. There is, however, an exception for trustees in the Norwegian bond market – the Norwegian Supreme Court has ruled that a trustee has capacity to represent the bondholders in court.

3. Security assets

3.1 Principle of legality
Pursuant to the Norwegian Pledge Act of 1980, pledges must have a legal basis in order to be legally established. This is often referred to as the principle of legality. Additionally, there are certain other statutory requirements that must be complied with in order to create a valid pledge, such as:

- maximum amount for the secured claim – a pledge over most assets will, with certain exceptions, for example unregistered shares and certain monetary claims, only be valid if the secured amount is capped; it is customary under Norwegian law to set a maximum amount which equals approx. 120-130% of the secured obligations
- limitations on disposals – any limitations on disposal of assets, for example in the form of consent requirements, will also apply to establishing a pledge
- limitations on floating charges – it is, with certain exceptions, for example inventory, operating assets and trade receivables, not permitted to create pledges over a company's current and future assets

Although not required under Norwegian law, the pledges are usually established by the entering into of separate pledge agreement, i.e. not in the loan agreement itself. The perfection requirements for Norwegian law governed pledges are explicitly stated in the Norwegian Pledge Act and depend on which asset that is, or will be, pledged as security for the loan.

Dyna lighthouse in Oslo.

3.2 Shares
The most common form of security in an acquisition finance scenario is a pledge over shares in the company which shares are to be acquired. The perfection requirements for share pledges depend on whether the shares are shares in a private limited liability company which is not registered in the Norwegian Central Securities Depository, or shares in a private or public limited liability company which is registered in the Norwegian Central Securities Depository.

A share pledge over shares in an unregistered private limited liability company is perfected by notice to the relevant company. The company is subsequently obliged to enter the pledge in its shareholders' register. Shares in public limited liability companies are registered in the Norwegian Central Securities Depository. Thus, a share pledge over shares in a public limited liability company as well as shares in a private limited liability company, which – voluntarily – is registered in the Norwegian Central Securities Depository, are perfected by registration in the Norwegian Central Securities Depository.

Provided that the pledgor is a legal entity and the pledgee is a financial institution or similar entity, for example a trustee for bond issues, it is customary to draft a share pledge agreement so that it constitutes a financial collateral agreement pursuant to the Norwegian Financial Collateral Act of 2004. The Norwegian Financial Collateral Act is an implementation of the Financial Collateral Arrangement Directive. The purpose of financial collateral agreements – in a share pledge context – is primarily to agree upon enforcement of the security in advance. There are certain requirements in the Norwegian Financial Collateral Act that must be fulfilled in order for a pledge agreement to constitute a financial collateral agreement, for example that the agreement must be bilateral and in writing, the agreement must regulate how the security may be enforced, the purpose of the agreement must be to secure the fulfilment of financial commitments, and the valuation of the security must be conducted in a commercially reasonable manner.

A share pledge will, if it does not constitute a financial collateral agreement pursuant to the Norwegian Financial Collateral Act, have to be enforced by way of a sale with assistance from the Norwegian enforcement authorities.

3.3 Financial instruments
Financial instruments other than shares which are registered in the Norwegian Central Securities Depository, can be pledged and the pledge is perfected by registration in the Norwegian Central Securities Depository. Deposits on an investor account in the Norwegian Central Securities Depository can also be pledged as a floating charge over such investor account.

The pledge is enforced in the same way as shares in private limited liability companies, i.e. by means of sale through a third party arranged by the Norwegian enforcement authorities.

3.4 Bank accounts
The most common way of establishing security over cash deposits is by a pledge of a specified bank account, which may include all amounts standing to the credit on such account including accrued interest thereon from time to time. The pledge is perfected by way of a notice from the pledgor to the account bank.

The pledgor will, as a starting point, not be entitled to make withdrawals or otherwise transfer amounts deposited on the account. The parties are, however, free to agree on other arrangements – for example that the pledgor shall be entitled to dispose of the account until an enforcement event has occurred.

If the pledgor's right to dispose of amounts on the bank account is unrestricted, the pledge agreement and the perfection notice will often specify that the pledgee is entitled to enforce the pledge by notifying the account bank that all amounts shall be transferred to the pledgee.

3.5 Inventory
Companies registered in the Norwegian Register of Business Enterprises can create a floating charge over current and future inventory such as raw materials, (un)finished commodities, merchandise, packing, engine fuel and other commodities consumed in its business operations. The pledged inventory must encompass all of the pledgor's inventory or clearly identified parts of it, separated from the remaining inventory.

The security is perfected by completing a standardized form in Norwegian which is subsequently sent to, and registered in, the Norwegian Register of Movable Property.

The pledgor is entitled to sell the pledged assets in its ordinary course of business. However, in the case of irregular sales or disposals, the security is not protected against a third party's acquisition of a pledged asset in good faith. The security is enforced through a sale carried out by the Norwegian enforcement authorities.

3.6 Operating assets
Companies registered in the Norwegian Register of Business Enterprises can create a floating charge over operating assets which includes machinery, tools, furniture, other equipment and various intellectual property rights determined for or used in the pledgor's business operations. As is the case for floating charges over inventory, the pledge must encompass the operating assets in their entirety, or the operating assets which relate to an operationally separate division of the pledgor's business.

The security is perfected by completing a standardized form in Norwegian which is subsequently sent to, and registered in, the Norwegian Register of Movable Property.

The pledgor can replace or sell pledged operating assets in its ordinary course of business as long as the disposal does not substantially diminish the value of the pledgee's security. However, in the case of irregular sales or disposals, the security is not protected against a third party's acquisition of a pledged asset in good faith. The security is enforced through a sale carried out by the enforcement authorities.

3.7 Intellectual property
In addition to such intellectual property determined for or used in the pledgor's business operations, and thereby covered by a floating charge over the pledgor's operating assets, specific patents, patent applications and patent licences can be pledged individually as security. These are perfected by registration in the Norwegian Patent Office. The security is enforced by the enforcement authorities in the way they deem fit, for example by way of a sale or issuance of licences.

3.8 Receivables
Security over receivables can be achieved in two ways:

- the pledgor can create a floating charge over existing and future trade receivables

- the pledgor can pledge existing or future individual claims against an identified debtor

A floating charge is perfected by completing a standardized form in Norwegian which is subsequently sent to, and registered in, the Norwegian Register of Movable Property. A pledge over individual claims is perfected by notification to the debtor of the specified claim.

Unless otherwise agreed, the pledgor is not entitled to dispose of the receivables and the pledgee has the right to claim payment(s) from the relevant debtors. The parties are, however, free to agree on other arrangements – for example that the pledgor shall be entitled to dispose of, and receive payments under, the receivables until an enforcement event has occurred.

If the pledgor's right to dispose of, and receive payments under, the trade receivables is unrestricted, the pledge agreement will often specify that the pledgee is entitled to enforce the pledge by way of claiming payment from the debtors, provided that the relevant claims are due for payment.

3.9 Real estate
Real estate pledges encompass land and constructions that are permanently attached to the land such as buildings. The security is perfected by completing a standardized form in the Norwegian language which is subsequently sent to, and registered in, the Norwegian Land Registry. The security is enforced by the enforcement authorities which will arrange for a compulsory sale of the real estate. The enforcement procedure depends on what is considered to give the best outcome, and is either carried out through a third party, usually a realtor, or by way of public auction. Third party sales are by far the most common enforcement procedure for real property pledges.

4. Enforcement

The Norwegian Enforcement Act of 1992 sets out the general provisions for enforcement of security under Norwegian law. As a rule, the parties to a pledge agreement cannot agree that the enforcement shall be carried out through the enforcement authorities without following the provisions set out in the Norwegian Enforcement Act. Further, the parties cannot, as a rule, agree in advance, i.e. before the occurrence of an event of default, that a security shall be enforced in any other way than through the enforcement authorities. There are, however, several exceptions to this general rule, for example with respect to pledges over bank accounts and receivables.

Further, if a pledge agreement constitutes a financial collateral agreement, the financial collateral may be enforced in the manner as agreed between the parties in advance. Accordingly, the financial collateral may be enforced regardless of the procedures set out in the Norwegian Enforcement Act. A share pledge agreement which constitutes a financial collateral agreement, usually provides the pledgee with several optional enforcement actions including an enforcement pursuant to the Norwegian Financial Collateral Act, but sale or appropriation are the most common enforcement actions.

The enforcement and valuation of the financial collateral, as well as the calculation of the relevant financial obligations, i.e. the secured claim(s), must be conducted in a commercially reasonable manner, usually based on market value. Following such assessment, the value of the financial collateral will be offset against the financial obligations.

5. Guarantees

Guarantees are commonly used in transactions in Norway. The two most common types are sureties and on demand guarantees. There are no formal requirements needed in order to provide a guarantee. As long as sufficient corporate benefit is present, no general provisions under Norwegian law set out limitations on the guaranteed amount.

Under sureties, the guarantee is an accessory to the principal claim, which entails that the guarantor can make objections to the claim for payment to the same extent as the debtor. The guarantor is obliged to pay the beneficiary the guaranteed amount if an event of default occurs.

Under on demand guarantees, the guarantee is independent from the principal claim, which entails that the guarantor cannot make objections to the claim for payment. The guarantor is obliged to pay the beneficiary the guaranteed amount on the beneficiary's first demand – pay first, argue later.

The Norwegian Financial Agreement Act of 1999, regulates agreements on financial services where a financial institution is party, for example guarantees made for the benefit of financial institutions and other similar entities. Several provisions set out in Norwegian Financial Agreement Act aim to protect the guarantor. For instance, under these provisions, the financial institution will be obliged to inform its counterparty about the risks of providing a guarantee, as well as, if necessary, advice its counterparty against providing the relevant guarantee. It is common that such provisions are waived in the guarantee agreement. In order to be valid, the guarantee must set out a maximum guaranteed amount. It is customary to set a maximum amount which equals approx. 120-130% of the secured obligations.


Kleivafossen waterfall near Briksdal glacier, Sogn og Fjordane.

6. Financial assistance

6.1 Introduction
In Norway, there are strict limitations as to when and to what extent a private or public limited liability company may grant a loan or provide security in connection with a third party's acquisition of shares or right to shares in the company or the company's parent company. The same applies for granting a loan or providing security for the benefit of the existing company's shareholders. Both the Norwegian Private Limited Liability Companies Act and the Norwegian Public Limited Liability Companies Act regulate financial assistance.

6.2 Restrictions on financial assistance
As a starting point, financial assistance in connection with a third party's acquisition of shares can only be provided if the value of the financial assistance is within the limits of what the company can distribute in dividends. With respect to financial assistance to existing shareholders, there must also be established adequate security for the company's claim for recourse.

Since the preceding criteria need to be complied with in addition to certain procedural requirements, financial assistance was previously impractical in an acquisition financing context, however, so that there are certain exceptions – some of which were implemented on 1 January 2020 – that allow certain companies within a group structure to grant security in favour of each other.

6.3 Restriction exceptions
There are certain exceptions to the restrictions on financial assistance – outside of a share acquisition context – for the benefit of a company's existing shareholders and their related parties. Firstly, a company can grant loans and provide security for the benefit of its parent company and other companies within the company group. Secondly, a company can grant loans and provide security for the benefit of a legal entity that has decisive influence over the company (e.g. a non-Norwegian entity) or its subsidiaries; in each case provided that the credit or security serves the economic interests of the group as a whole.

These exceptions are heavily relied upon when a company intends to raise financing and the lender(s) require that other companies within the company group grant security for the loan.

6.4 Exception – security provided in favour of a third party acquiring shares and being, or becoming, part of the group
According to new legislation, the restrictions with respect to financial assistance within the limits of what the company can distribute in dividends do no longer apply if the acquirer is domiciled in an EEA member state, and if the acquirer is part of the same company group as the company or the acquisition results in a company group being estabslished. The same applies if the parent company is a legal entity with decisive influence over the company.

Provided that the abovementioned criteria are met in connection with the acquisition of shares, the company that provides the financial assistance must further comply with certain procedural rules that are more extensive than before the exception was introduced.

In any case – the new legislation will presumably result in that financial assistance in connection with an acquisition of shares will become more common in Norway.

V. Real Estate

V. Real Estate

1. General

1.1 Concessions
In principle, there are no legal requirements that must be fulfilled in order to own, lease or in other ways invest in real estate in Norway.

For share deals regarding real estate, no concession is necessary. However, direct acquisition of real estate (instead of acquiring the shares in a real estate company) is, as a rule, subject to concession pursuant to the Norwegian General Concession Act of 2003. The concession requirements are the same for both Norwegian individuals/companies and foreign individuals/companies.

There are certain exceptions from the Norwegian General Concession Act which cover a broad spectre of real estate acquisitions, and concession is therefore rarely a risk in a real estate transaction. In respect to undeveloped large properties, agricultural areas, industrial properties or rights to waterfalls etc., stricter requirements apply.

1.2 Form requirements
The main rule in Norwegian law is that there are no requirements regarding the form of contracts. An oral agreement is just as binding as a written one. Further, there is no need for notarisation of real estate acquisition contracts or any other contracts.

Legally binding contracts will be established already when the parties have agreed upon the main terms for the transaction. In other words, legally enforceable contracts may be entered into even if less important details in the contract are still not agreed upon and the contract has in fact not been signed.

Thus, it is common – and recommendable – that professional parties, in negotiations regarding real estate lease and acquisition contracts, make the reservation that a binding contract can only be established when the contract and all of the terms have been considered and accepted by the board of directors, and that the contract has been duly signed.

The main rule in Norwegian law is that there are no requirements regarding the form of contracts. An oral agreement is just as binding as a written one. Further, there is no need for notarisation of real estate acquisition contracts or any other contracts.

1.3 Legal framework
Unless the parties specifically have derogated from applicable law, the background law will supplement real estate acquisition and lease contracts.

The direct acquisition of real estate (asset deal) is regulated by the Norwegian Alienation Act of 1992. However, the acquisition of shares in real estate companies (share deal where the main

asset is a property) is initially regulated by the Norwegian Sale of Goods Act of 1988. Note that in addition, the Norwegian Alienation Act may apply to such share deals for elements related to the property. Lease contracts are regulated by the Norwegian Tenancy Act of 1999, which supplements the terms of lease contracts.

The Norwegian Alienation Act and the Norwegian Tenancy Act regulate the acquisition and lease, respectively, of both residential and commercial properties. In contracts between professional parties, one may derogate from most provisions of both acts, however, the acts are to a large extent invariable when one party is a consumer. Between professional parties, derogation from several provisions of the acts in favour of the lessor/seller is considered to be a standard practice within the market.

Several other acts may apply to real estate transactions and the conclusion of lease contracts, such as the Norwegian Housing Cooperative Act of 2003, the Norwegian Housing Construction Act of 1997, the Norwegian Estate Agency Act of 2007, the Norwegian Property Unit Ownership Act of 2017, the Apartment Building Act of 1977, the Norwegian Mortgage Act of 1980, the Norwegian Easement Act of 1968, the Norwegian Land Registration Act of 1935 and the Norwegian Ground Lease Act of 1996. In addition, several provisions of these and other acts, as well as zoning plans, form a significant public law restriction in the right of disposal of Norwegian property.

The Opera house in Oslo.

1.4 Ground lease
Generally, the owner of a building also owns the ground on which the building stands. However, ground lease is also extensively used in Norway, where the tenant leases the ground pursuant to a ground lease contract with the property owner and erects buildings for his own expense. When leasing the ground, the tenant owns the buildings, whilst the tenant leases the ground. Such ground leases are therefore generally entered into for a long period of time, usually for periods of 50 - 100 years.

The ground lease model is widespread in Norway compared to other countries. There are approx. 350,000 ground leases in Norway, encompassing both residential and commercial properties. This combined ownership and lease model is regulated by the Norwegian Ground Lease Act. The main purpose of the act is to protect residential house owners that risk termination from the lessor or increased rent that may endanger the ability to keep their home.

The Norwegian Ground Lease Act consists of several complicated legal issues, and the act is frequently amended due to political controversy regarding the ground lease model of ownership to the ground for residential purposes. In general, buildings where the connection to land is based on a ground lease are valued lower than a full ownership. Furthermore, for contracts regarding commercial property, it is important to derogate from regulations in the Norwegian Ground Lease Act, which are meant to protect the residential house owners. Any investor should be aware that the acquisition of property based on leased ground implies particular risk factors that should be thoroughly evaluated.

1.5 Standard contracts
It is characteristic for the Norwegian real estate market that standard contracts are widely used, where the background law is replaced by contract clauses that more or less reflect market standard regulations. The contracts are updated approx. every second year, because of both changes in the legal framework and for incorporation of market signals. These contracts, for both the acquisition of and lease of real estate, are regarded as being relatively balanced and commercially sound, and regulate the most important and central terms that the parties should incorporate into a contract.

There are standard contracts for both direct acquisition of real estate (asset deals), and for the acquisition of real estate through acquisition of shares in a real estate company (share purchase agreement for share deals). Separate standard contracts for, respectively, the Norwegian private limited liability company and other company structures that are common in Norway have been developed.

The eastern neighbourhoods of Oslo.

Various contract standards for lease contracts have also been prepared, such as for lease of new/used premises, lease of new/used complete buildings and bare-house lease contracts, which can be compared with – albeit with some distinctions – typical triple-net lease contracts. In addition, standard regulations for alteration for lease objects that are to be built/shall be adjusted for the tenant, have been made.

Compared to international standards for share purchase agreement and lease agreements, Norwegian standard contracts are quite short and contain several provisions that seem to open up for risky, discretionary judgement. The relatively small Norwegian real estate market has established a market practice for filling out the open elements of the contracts. Foreign investors often point out the lack of specification and foreseeability in the wording of the contracts. However, there is a development of the Norwegian contracts adopting typical regulations from international agreements.

One of the reasons for the widespread use of the standard contracts is that it simplifies the transaction process, including due diligence investigations, when the structure and content of both the acquisition contracts and the lease contracts are already well known. This is a contributing factor to the relatively short time-span, and limited investigations during transactions in the Norwegian real estate market. Although some foreign investors have adapted to the Norwegian market standard process of speedy transactions, other foreign investors insist on a more professional vendor due diligence and a transaction process with a duration of three to six months instead of the, common one to two month, period.

1.6 Real estate agents
It is common practice to engage professional real estate agents who are specialised within the commercial real estate segment, both when acquiring or leasing property. In medium or large transactions, both parties are represented by real estate agents and lawyers. For more complex investment structures, investment firms with concession under the Norwegian Securities Trading Act of 2007 are key advisors for the parties involved in the transaction.

2. Acquisition of real estate

2.1 Alienation Act
The direct acquisition of real estate in Norway, including both residential and commercial property, is governed by the Norwegian Alienation Act. If the transaction is structured as a share deal, the Norwegian Sale of Goods Act does apply, and the Norwegian Alienation Act may apply for elements related to the property itself.

Norwegian direct acquisition contracts are often less complex than standard acquisition contracts used in other countries, as the provisions of the Norwegian Alienation Act will apply as background law. Therefore, as a main rule, the parties to a real estate transaction only agree on provisions regarding specific matters in respect of which they want to derogate from the Norwegian Alienation Act.

It is important to be aware of the fact that under the Norwegian Alienation Act, the seller of real estate is liable for substantial hidden defects, even if the property is sold “as is”. However, the parties to a commercial real estate transaction normally derogate from the Norwegian Alienation Act in this respect, as the seller limits its liability to situations where information given by the seller to the purchaser has been incorrect or incomplete. More specific elements, that protect the purchaser, are typically governed by guarantees from the seller.

Furthermore, under the Norwegian Alienation Act, the time period within which the purchaser may claim damages due to defects that the seller is liable for, is five years. Still, the claim may become time-barred if the limitation period of three years has expired. However, the parties to a commercial property transaction normally derogate from the Norwegian Alienation Act in this respect as well, and agree on a period of which the seller is liable for any defects of one or two years.

2.2 Transaction structure
In an asset deal structure, the purchaser acquires the title to the real estate. The acquisition contract is then entered into directly with the owner of the real estate. In a share deal structure, the purchaser does not acquire the title to the property itself, but to the shares in the company which owns the real estate. The real estate is therefore not transferred to the purchaser, but remains with the company in which the shares have been acquired.

Share deals are normally relevant only when the target’s single purpose is to own real estate. The purchaser is normally not interested in acquiring other assets or accepting other risk factors. The share deal structure also has an impact on the legality of using the target company’s assets, i.e. the real estate, as a mortgage when financing the share acquisition.

Most transactions of commercial real estate in Norway are share deals, and in addition to the aforementioned reasons, a share deal will often involve lower transaction costs due to lower taxes and duties than what is the case for asset deals.

Set on the banks of the Oslo Fjord, the historic Akershus Fortress is one of Norway's national symbols.

The fortress was built as a medieval castle commissioned by King Haakon V in 1299 in order to protect the city of Oslo, and later turned into a renaissance royal residence by king Christian IV in the early 17th century.

Today, the fortress area is a popular venue for concerts, public holiday celebrations and other ceremonies.

2.3 Contract conclusion

Transactions for commercial real estate in Norway are characterised by having very short offer deadlines compared to the common practice in other countries. Seeing as the purchaser's offer and the seller's acceptance form the basis for the contract that is to be entered into, it is very important that one is careful in the preparation of the offer. Over the last years, however, the market has been adjusted to the expectations from foreign investors which conduct more thorough investigations.

The basis for the parties' subsequent agreement will be the purchaser's and seller's agreed acceptance of the offer. In practice, this is done by the purchaser making an offer on certain terms which the seller may accept, or perhaps make a counter offer with different terms. This negotiation process will usually last a relatively short period of time, often only a few days. During the offer and acceptance period, it is customary that the parties make reservations for satisfactory financing and for significant findings during technical/financial/legal due diligence and that the boards of directors of the respective parties approve the final acquisition contract that the parties shall negotiate.

When the parties have reached an agreement on the contents of the acceptance of the offer, the next phase of the acquisition process – which is the due diligence and further contract negotiations – begins. It is customary to agree upon a deadline for when the due diligence shall be finalised and when all reservations in the offer shall be lifted

2.4 Due diligence

Prior to closing a real estate transaction, it is recommended to carry out a due diligence. If one does not carry out the due diligence before making an offer for real estate or a real estate company, one should make reservations for the closing of the transaction being subject to any findings in the due diligence.

The due diligence process will vary and be more extensive in a share deal structure than in an asset deal structure. In the event of an asset deal, one would normally go through the financial, technical, environmental and legal aspects of the real estate. This can typically be the legal basis for the ownership, tax and VAT issues, encumbrances, lease contracts that follow the real estate, management agreements, public permissions and development plans.

In a share deal structure, one will, in addition to the above, conduct a review of the company in which the shares are acquired. Seeing as the purchaser takes over all of the company's obligations, it is therefore important to examine the company's obligations towards any employees, tax and VAT positions, documents such as minutes from board of directors meetings and general meetings, as well as other contractual commitments the company may have.

Simultaneously with the due diligence process, the parties will usually negotiate further on the provisions in the acquisition contract regarding conditions and guarantees. The contract will often, but not necessarily, be based on a standard contract.

2.5 Signing and closing

Legally binding contracts may be established through negotiations, regardless if some of the details in the contract remain to be agreed upon. Therefore, it is common to make reservations both regarding signing the contract and the board of directors' approval, in order to avoid that the contract becomes legally binding. When a final agreement has been reached, the parties will lift these reservations and the contract can be signed. Pursuant to Norwegian law, the contract will be legally binding when the parties have signed it. A notarisation of the contractual documents is, as opposed to what is the case in some other countries, not necessary in Norway.

In the contract, the parties will have scheduled a time for closing, the time where the risk and rights to the real estate or the shares are transferred from the seller to the purchaser and where the seller receives payment. In a share deal, the new shareholder is entered into the shareholder register of the company, and in an asset deal, the real estate should be transferred by deed and the purchaser should be registered in the Norwegian Land Registry. The registration in the Norwegian Land Registry is not a condition in order to carry out the transfer of title to the real estate from the seller to the purchaser. However, such registration is necessary for the purchaser to obtain legal protection against good faith third parties and seller's creditors.

The closing process is a very important part of the transaction process, and without professional assistance the parties will be exposed to unnecessary risk, such as bankruptcy of the other party. It is therefore customary that the parties use a settlement broker to assist with the settlement.

2.6 Financing

In Norway, there are strict limitations as to when and to what extent a limited liability company may provide security in connection with a third party's acquisition of shares in the company. Thus, if the real estate is purchased by means of a share deal, there are certain legal restrictions for using the real estate as security for the loan obtained for acquiring the shares in the target company.

As a starting point, financing in connection with a third party's acquisition of shares can only be provided if the value of such financial assistance is within the limits of what the company can distribute in dividends. With respect to financial assistance to existing shareholders, there must also be established adequate security for the company's claim for recourse.

Harbour in Lofoten.

However, according to new legislation, the restrictions with respect to financial assistance within the limits of what the company can distribute in dividends do no longer apply if the acquirer is domiciled in an EEA member state, and if the acquirer is part of the same company group as the company or the acquisition results in a company group being established. The same applies if the parent company is a legal entity with decisive influence over the company.

The former exception from these restrictions which applied to the acquisition of 100% of the shares in a target company owning the real estate, and not owning any other assets than the real estate, is longer in force under the new legislation.

2.7 Tax, VAT and duties
Upon direct sale of real estate, the seller will be taxable for any gain on the real estate. Any gain will be taxable with 22%, while any loss will be deductible in the 22% tax base. The taxation gains may be deferred and considered as income with 20% per year on a declining balance method, while a loss must be deferred and may only be deducted with up to 20% per year on a declining balance method.

If the transaction is structured as a share deal, an individual shareholder will be taxable with 31.68% on any gains arising from the sale of shares. Any loss will be deductible in the 31.68% tax base. However, if the shares are held by a corporate shareholder, Norwegian tax law has a preferential participation exemption method. Corporate shareholders will not be taxable for gains on sale of shares of Norwegian resident companies (nor EEA-companies or other qualifying companies).

In an asset deal structure, it is customary to register the purchaser as the new owner of the real estate in the Norwegian Land Registry. The registration itself triggers a small fee of NOK 585 if filed on paper and NOK 540 if filed electronically. In addition, there is a stamp duty of 2.5 % of the real estate's sales value. As a main rule, the Norwegian Land Registry calculates the stamp duty from the purchase price, but if the purchase price differs from market value, the market value will form the basis for calculating the duty. It is notable that it is the marked value at the actual time of the registration, and not the purchase, that forms the basis for the calculation. There is no stamp duty for share deals.

There is no obligation to register the new purchaser in the Norwegian Land Registry, and the stamp duty will only accrue if such registration is made. However, registration is the only way the purchaser can ensure itself against extinction from good faith third parties and against creditor seizures from the seller's creditors. It is recommended that the purchaser is registered despite the stamp duty, but in some cases – for example where the purchaser is taking a very short-term ownership in for example development projects – it may be financially beneficial to omit registration. Alternatives do exist, but they are not adequate safeguards against good faith third parties and seller's creditors.

When a real estate transaction is structured as an asset deal, the (new) purchase price will be the basis for future depreciations for the purchaser. However, when a real estate transaction is structured as a share deal, there will be no step up on the deprecation basis of the assets of the company. The effects are that the purchaser obtains a lower property value for tax deduction purposes, and that the purchaser acquires an unrealised tax liability.

Upon direct sale of real estate, the seller will be taxable for any gain on the real estate. Any gain will be taxable with 22%, while any loss will de deductible in the 22% base.

This, amongst other tax and VAT related issues, will normally be taken into consideration when calculating the purchase price of the shares. The parties usually agree upon using the value of the real estate as a basis for the calculations of the purchase price. The purchase price of the shares shall be equal to the real estate value including the additions and deductions of the real estate company's tax and VAT liabilities, as well as gains or rights to adjustments to VAT. In connection with reduced depreciation basis, the parties will usually agree upon making a deduction equal to a percentage of the difference between the real estate value, after the deduction of the estimated market value of the land, (because of the fact that the land does not qualify for any depreciation charge) and the basis for tax depreciation on the real estate as per closing. The agreed percentage is normally between 9% and 11%, but this may vary and depends on which of the different depreciation groups that apply. Technical installations in buildings have a higher depreciation rate than the building itself, and the depreciation rate may vary for different types of buildings as well.

Sale of real estate is VAT exempt, without a right to VAT deduction. The same applies with respect to sale of shares in real estate companies.

In addition, VAT shall not be calculated with respect to transfer of real estate in connection with a merger, demerger or asset deals. However, the VAT adjustment rules will apply and might trigger an obligation to adjust for previous deducted input VAT in connection with upgrades that have been made on the property during the last 10 years.

The obligation to adjust VAT may be transferred under a separate VAT adjustment agreement, which is an essential tool in successfully closing real estate transactions. However, there are specific material and formal requirements that must be followed in order to transfer the VAT adjustment obligations. It is an absolute condition that the new owner will use the real estate in a registered business liable to VAT. The VAT adjustment agreement must also contain certain information and needs to be signed by the parties within a specific deadline.

The VAT regulation related to the VAT adjustment rules are complex. It is therefore important to assess the VAT implications in an early stage, and prior to completion of the transaction, in order to avoid VAT risk/optimize the VAT.

The VAT adjustment rules do not apply with respect to sale of shares in a real estate company. Hence, the shares can be sold without any risk for adjustment of previous deducted input VAT.

Properties in Norway are, in general, subject to a local municipal real estate tax, for example Bergen: 5‰ (2.6‰ for private properties), Oslo: 3‰ and Stavanger: 4‰(3‰ for private properties), regulated by an immoveable property tax law, on the municipalities' valuation of the properties. The tax is levied on the property and not the owner.

The areas of Aker Brygge and Tjuvholmen are regarded as prime office areas in Oslo. Large firms, banks and brokerages have their offices here. Approximately 7,700 persons work in the area and approximately 2,400 persons live here.

3. Lease of real estate

3.1 Tenancy Act
Lease contracts are governed by the Norwegian Tenancy Act which applies to the lease of both residential and commercial properties. As the Norwegian Tenancy Act is regarded as rather tenant friendly, commercial parties normally agree on extensive deviations from the Norwegian Tenancy Act.

3.2 Standard contracts
As mentioned above, there are several standard contracts for different types of commercial real estate leases, based on generally accepted commercial market standards.

The main deviation from the standard contracts and the Norwegian Tenancy Act implies that the lessor gets a more secure cash flow as the tenant can not withhold or deposit rent, or set off the rent with claims against the lessor. The lessor's maintenance obligations is also usually, to a large extent, transferred to the tenant, as the tenant must pay for renovations of parts of the leased real estate. With regard to the Norwegian Tenancy Act, the standard contracts also set significant restrictions on the tenant's possibility to sublet the leased real estate, as well as restrictions on the possibility of selling the shares in the tenant company.

3.3 Lease period

Commercial lease contracts are normally long-term, for example five, 10, 15 or even 20 years. Normally the contract cannot be terminated by either party during this period. The lease contracts often provide an option in favour of the tenant to renew the lease contract on the same terms for one or more shorter periods.

3.4 Rent

Normally, a fixed rent is paid on the lease of business premises, but for the lease of retail or restaurant/catering premises, it is customary that the tenant pays a lease based on a percentage of the revenue, although no less than a minimum fixed rent.

The tenant will normally cover a proportionate share of the real estate's common costs which are paid during the year, before a final settlement takes place the following year, when the lessor has a complete overview of the actual costs. When making the settlement, the tenant will generally have the right to inspect the lessor's accounts showing the common costs. Typical common costs will be electricity for heating and lighting of the common areas, technical installations that serve the tenants of the building, public dues, renovation, cleaning and maintenance of common areas as well as maintenance of technical installations such as ventilation and lifts etc.

As a main rule, the rent is subject to an annual regulation in accordance with the consumption price index.

3.5 VAT

The lease of real estate is VAT exempt. However, the lessor is entitled to apply for a voluntary VAT registration for the leasing of real estate provided the tenant will use the real estate in a VAT liable business, or the real estate will be used by a municipality in a business subject to the VAT compensation scheme.

The consequences of opting to pay VAT for lease of real estate are that input VAT may be deducted on costs, whilst the consideration (rent) is subject to output VAT at the standard rate of 25%. The option to pay VAT is therefore beneficial when the tenant is taxable for VAT purposes with a right to deduct input VAT, e.g. on construction and operating costs. In order to benefit from this, a number of formal requirements must be met by the lessor.

Formal requirements must also be met by the tenant. Breach of such formal requirements has severe consequences for both parties.

The clauses regarding VAT in the lease contract regulates which party to the contract should bear any VAT loss or other VAT related disadvantages, and are therefore essential.

Changes to the VAT liable status of the tenant, or changes in the mix of tenants during the leasing period, could trigger an obligation to adjust down, or the right to adjust up, previous deducted VAT on upgrades. VAT adjustment obligations might also be triggered in connection with sale of real estate, or transfer in connection with merger, demerger or sale of business.

Norway has a very strong economy. GDP per capita is the second highest in the world. The forecast for the coming years predicts continued growth with an unemployment rate at 4%.

The Norwegian government controls the world's biggest sovereign investment fund, The Government Pension Fund Global, with a value close to 7000 billion NOK / 900 billion USD. The strong economy makes Norway an interesting market despite its market size.

VI. Energy

VI. Energy

1. Renewable energy

1.1 Renewable energy in Norway
Norway has the highest share of electricity produced from renewable sources in Europe, as well as the lowest emissions from the power sector. Annual production is normally approx. 140 TWh.

Hydropower accounts for approx. 96% of the total annual production. More than 75% of the hydropower is based on reservoirs, which makes the Norwegian power system flexible.

Norway differs from the rest of Europe, where security of supply is based mainly on thermal power plants with fuels available in the energy markets.

In addition to renewable electricity production as a main energy supplier, Norway also has other segments based on the production of various energy carriers, such as district heating, natural gas and bioenergy.

The development of onshore wind power is increasing. With regard to offshore wind, Norway is still in the initial phase, but the government is currently working on the development of more detailed legal regulations and facilitating application for licences for developing offshore wind power.

1.2 Legal framework for the renewable energy sector
In order to develop infrastructure for electricity production and transmission, the Norwegian legislation requires a licence from the government. The licence authority lies with the Norwegian Parliament, the Norwegian Ministry of Petroleum and Energy and the Norwegian Water Resources and Energy Directorate. Power plants under a certain size can receive licence from the local authority.

Norway's legislation shall ensure that the different interests are heard and considered during the licence procedures. Some of the most conflicted public interests are water resources management, biodiversity, landscape, cultural heritage, local communities, reindeer husbandry and tourism.

In addition to the specific licence acts and regulations mentioned in this chapter, several other acts and regulations apply for the Norwegian energy sector.

With regard to the licence procedures, there are also several other acts that apply, such as the Norwegian Planning and Building Act of 2008, the Norwegian Nature and Diversity Act of 2009, the Norwegian Pollution Control Act of 1981, the Norwegian Cultural Heritage Act of 1978 and the Norwegian Reindeer Husbandry Act of 2007.

As Norway is part of the European Economic Area, a great deal of the energy legislation is harmonised with EU legislation.

1.3 Hydropower
Norway produces approx. 134 TWh from hydropower annually. Approx. 124 TWh is produced by large-scale hydropower. Norway has more than 1,000 hydropower storage reservoirs. This entails that Norway's power system is flexible and can produce electricity when there is little precipitation and the inflow is low.

Most of the large-scale hydropower reservoirs were constructed before 1990. Upgrading and expansion of hydropower plants have made it possible to utilise the reservoirs more fully.

In order to develop a hydropower plant, the project developer needs to hold the necessary rights. A power project developer that does not hold the necessary rights to establish and operate installations in a river system, may apply for the expropriation of these property rights in accordance with the Norwegian Expropriation Act of 1959.

A private developer (non-state developer) needs to hold a licence under the Norwegian Waterfall Rights Act of 1971 in order to acquire rights to waterfalls that exceed the threshold under the act. The purpose of the Norwegian Waterfall Rights Act is to ensure that Norway's hydropower resources are managed in the country's best interest through public ownership. Public ownership entails that a public body; state owned enterprise, municipalities and county authorities must hold at least two-thirds of the capital and the votes in the company that holds the licence issued under the Norwegian Waterfall Rights Act.

To regulate flow in a river or transfer water between river systems for use in power generation above a certain threshold, a licence is required in accordance with the Norwegian Watercourse Regulation Act of 1917. The act also applies to run-of-river hydropower plants that generate more than 40 GWh a year.

Windmills for electric power production. Havoysund, Northern Norway.

Owners of large hydropower are required to pay a licence fee to the state and to the municipalities affected by the hydropower developments. The fee depends on the theoretical capacity of the power plant, and is calculated in the actual power production. Owners of large hydropower plans are also required to deliver power corresponding up to 10 per cent of the theoretical capacity to the municipalities affected by the hydropower developments.

In addition to the above large-scale hydropower, with flexible reservoirs, Norway has also developed a significant amount of small-scale hydropower plants – less than 10 MW installed effect. Of the total of approx. 134 TWh produced by hydropower, small-scale hydropower represents a little over 10 TWh of the annual production.

The Norwegian Water Resources Act of 2000 regulates the small-scale hydropower projects, in addition to all types of development that take place in a river system. This may for example be abstraction of water for fish farms and extraction and deposition of sand, gravel etc.

Small-scale developments that are not expected to cause significant damage does not require a licence under this act.

There are no requirements for public ownership to small-scale hydropower, although there are some small-scale hydropower projects localised in rivers that are above the threshold under the Norwegian Waterfall Rights Act, and therefore are subject to the public ownership requirements.

Small-scale hydropower has for the last years been an attractive investment opportunity for foreign investors with long-term investment perspectives.

1.4 Wind power
Norway's first wind farm – Smøla – was up and running in 2002. The wind farm started out with an installed capacity of 40 MW. In 2005, the installed capacity was increased to 110 MW. Since then, more than 36 wind farms have been built in Norway, with an installed capacity of approx. 1,700 MW. Expected production for 2019 was approx.10 TWh.

Onshore wind power in Norway has become more and more profitable over the years, and is now a sought after investment for European companies.

For building, owning and operating an onshore wind power, you need to apply for a licence pursuant to the Norwegian Energy Act of 1990. There are no limitations for private ownership to wind power. In order to develop a wind power plant, the project developer needs to hold the necessary rights, such as property rights. Normally, the project developers enter into agreements of purchasing or renting the necessary property rights. If you have been provided with a licence, it is also possible to expropriate and obtain the necessary property rights in accordance with the Norwegian Expropriation Act.

Rapids on the Sjoa river in Oppland County of Eastern Norway, Scandinavia, popular for rafting, kayaking and riverboarding.

The Norwegian Offshore Energy Act of 2010 provides the legal basis for the future development of offshore renewable energy production. The act applies to Norway's territorial sea outside the baselines and to the continental shelf.

During 2019, the government proposed opening three areas for offshore wind. The proposal is on a public hearing and the government will most likely reach a decision during 2020.

1.5 Electricity certificates
Electricity certificates is a financial support scheme to increase renewable energy production in Norway and Sweden in order to achieve 28.4 TWh renewable power production within the end of 2020. The scheme was triggered by the Renewables Directive No 2009/28/EC.

Since 1 January 2012, Norway and Sweden have been linked through an electricity certificate market. The electricity market is a constructed market in the sense that the demand for certificates arises from a statutory obligation to purchase them. Sales of electricity certificates give power producers a supplementary income in addition to that derived from sales of electricity.

New built renewable power plants, and some upgrading and expansions, are entitled to electricity certificates following certain criteria and approval by the Norwegian Water Resources and Energy Directorate. Power consumers, with some defined exemptions, are obliged to cover a certain amount of their consumption with certificates. The quota has increased gradually until 2020.

A production facility must be in operation by 31 December 2021 to be entitled to receive electricity certificates and may receive certificates for a period up to 15 years. The scheme ends in 2036 for Norway, but Sweden has agreed to continue the scheme with a new national aim between 2020 and 2030.

1.6 Guarantees of origin
A guarantee of origin (GO) is an electronic document providing to end customers that the corresponding 1 MWh of electrical energy was produced from renewable sources. The scheme is regulated in the Renewables Directive No 2009/28/EC and implemented in Norwegian legislation.

1.7 Distribution of electricity and the power market
The Norwegian electricity grid consists of the transmission grid (operated by Statnett), the regional grid and the distribution grid. The regional and distribution grids are often owned by municipalities and county authorities, but there is some private ownership.

You need a licence under the Norwegian Energy Act in order to own, build and operate the grid. The licence to own and build distribution grids is organised so that the licence is given for a specific area – a monopoly.

Currently, Norway has interconnectors with Sweden, Denmark and the Netherlands, as well as Finland and Russia. Interconnectors to Germany and UK are under construction. Because of the flexibility of Norwegian hydropower production, Norwegian producers can retain water in the reservoirs, and export power when wind power production in Europe is low and electricity prices are higher.

The Norwegian Energy Act is based on the principle that electricity production and trading should be market-based, while grid operations are strictly regulated. Although the distribution of power is a monopoly, the customers can choose the supplier.

The government regulates the grid companies' allowed income and the allowed tariffs they can claim from the customers. This is regulated under the Norwegian Energy Act, and is harmonised with EU-regulations.

Many grid companies are part of vertically integrated companies, i.e. companies that are involved in both electricity generation, transmission and/or trading. By 2021, all grid companies must undertake legal unbundling and grid companies with a certain number of customers must undertake functional unbundling. The purpose is to make the distinction between market-based and monopoly activities clearer.

2. Oil and gas

2.1 Oil and gas in Norway

The oil and gas sector is Norway's largest industry in terms of value added, government revenues, investment and export value. Since the first discoveries were made in the late 1960's, the industry has accounted for around NOK 14 000 billion to the country's GDP. Unsurprisingly, this has contributed to substantial economic growth and has helped finance the Norwegian welfare state.

Furthermore, oil and gas accounts for roughly half of Norway's export of goods. This makes Norway the 8th largest producer of oil and 3rd largest producer of gas in the world. With 85 active fields on the Norwegian Continental Shelf (2019) and 53% of the petroleum resources still left in the ground, the activity level on the Norwegian Continental shelf is expected to grow in the years to come.

2.2 Main regulatory bodies

The Norwegian Parliament is the main authoritative regulatory body, governing all oil and gas activities on the Norwegian Continental Shelf (NCS). The executive powers lies with the Government, which is responsible for carrying out the petroleum policy and is held accountable by the Parliament. However, the Government's executive powers are spread across a number of ministries and subordinate agencies.

The Norwegian Ministry of Petroleum and Energy (MPE) is responsible for the overall management of the petroleum sector. This includes responsibility for ownership regulations and licensing rounds. However, part of the responsibility is delegated to the Norwegian Petroleum Directorate (NPD). The Directorate adopts regulations and make decisions under the petroleum legislation. In addition, the Directorate functions as an important advisory body for the MPE.

The Norwegian Ministry of Labour and Social Affairs, together with the subordinate Norwegian Petroleum Safety Authority, is responsible for safety and HSE matters. The Norwegian Ministry of Finance is the main regulatory body for taxation issues. Furthermore, the Ministry of Finance is also responsible for managing the State's ownership and financial interests in the oil and gas sector.

The overall environmental policies and frameworks are governed by the Norwegian Ministry of Climate and Environment. Acute ocean pollution is handled by the Norwegian Ministry of Transport and Communication.

Lastly, the Norwegian Ministry of Trade, Industry and Fisheries is consulted during licensing processes. This is important in order to ensure that other industries are taken into consideration before petroleum licences are awarded.

2.3 State participation and ownership

The Norwegian oil and gas industry is characterised by a high level of state participation. Through the system called the Direct Financial Interest (SDFI), the state owns substantial holdings in several oil and gas fields, pipelines and offshore activities. The number of holdings are determined in each production licence awarded and it varies from field to field. The state currently have holdings in 208 production licences, 34 production fields and interest in 15 joint ventures. It is estimated NOK 85 billion in net cash flow from the SDFI in 2020.

The State is also the largest actor on the NCS through its direct ownership in Equinor ASA (former Statoil). Equinor ASA is currently operating 70% of all oil and gas production on the NCS and the state owns 67% of the shares in the company. State revenue from Equinor ASA is estimated to reach 20.4 billion in 2020.

In addition to the revenue from the SDFI and direct ownership, the state also collects tax revenue. The Norwegian Petroleum Taxation Act of 1975 governs this. According to estimates, the State will collect NOK 132 billion in tax revenue from the oil and gas sector in 2020.

The State's total revenue is transferred to the Government Pension Fund Global (the Petroleum Fund). In 2019, the Fund's net worth was NOK 10 000 billion.

2.4 Regulatory framework

The regulatory framework for the oil and gas sector consists of various elements:

- Fundamental regulatory principles

The overall objective of the regulatory framework is to ensure a long-term profitable production of oil and gas. Furthermore, a key objective is to ensure that the value created benefits society as a whole. In this regard, the revenue should contribute to welfare, employment and an improved environment. Furthermore, it is important that the petroleum activities coexist with other industries, while also taking due regard to regional and local policy considerations.

- Main legal framework

The Norwegian Petroleum Act of 1996 sets out the main regulatory framework for oil and gas activities on the NCS. The Norwegian State has proprietary rights to all subsea petroleum deposits and the exclusive right to resource management. Furthermore, the Petroleum Act provides the legal framework for the licensing system, including the process for awarding exploration and production licences.

In addition to the legal framework set out in the Petroleum Act, actors on the NCS are subject to a comprehensive system of regulations and approvals such as the Norwegian Regulations to the Petroleum Activities Act, which regulates resource management. HSE- regulations are also important for the health, safety and environmental aspects of the oil and gas activities.

In contrary to certain other jurisdictions, the Norwegian HSE-regulations are function and risk based. Instead of detailed and specific obligations, the licenscees choose how to fulfil the requirements. Furthermore, the Norwegian system operates with a particular “see-to” duty for the operators. The operators are obligated to ensure that their contractors and subcontractors complies with the HSE-requirements and other applicable regulations. This duty comes in addition to each player's individual responsibility to comply with regulations, and functions as an overriding supervisory obligation. The licenscees also have a “see-to” duty towards the operator in order to ensure that relevant and necessary requirements are fulfilled.

- Production licences and licensing rounds

Any company that wish to engage in oil and gas activities on the NCS are required to hold a production licence granted in accordance with the Norwegian Petroleum Act. The licence govern the rights and obligations towards the Norwegian State.

The production licence grants the exclusive right to carry out exploration activities, drilling and production of petroleum in the area covered by the licence. Licenscees become the owner of the oil and gas produced. Companies can also apply for exploration licences. Exploration licences only grants the right to exploratory activities.

Production licences are awarded through licensing rounds announced by the MPE. There are two kinds of licensing rounds on the NCS: the numbered licensing rounds and the Awards in Predefined Areas (APA). The main difference between the two is that the numbered licensing rounds consists of frontier parts of the NCS, while the APA consists of more mature parts of the shelf with known geology.

The MPE grants licences based on objective, announced and non- discriminatory criteria such as organisational requirements, financial and technical capability. Companies with existing licences are qualified to apply for production licences in the licensing rounds. New entrants must be pre-qualified before they can apply. In order to be pre-qualified the applicant must have an organisation in Norway and a sufficient amount of resources in place for the Norwegian company to utilise, for example through a parent company. A more detailed guide to the pre-qualification process can be found on the Norwegian Petroleum Directorate's homepage.

The MPE can require licenced companies to provide a parent company guarantee as security for potential liabilities and obligations towards the Norwegian State. Furthermore, all licenscees are required to have insurance for such potential liabilities as well.

· Joint operating agreement and accounting agreement

Companies applying for production licences are required to enter into a Joint Operating Agreement (JOA) based on a standard format prepared by the MPE. The JOA governs the relationship between the licenscees and forms the basis for the day-to day management of the activities carried out by the joint venture. One of the licenscees are nominated as the operator for the joint venture. The operator is responsible for the operational activities on a "no gain-no loss" basis. The licenscees in the JOA are also required to conclude an Accounting Agreement regulating the accounting and financial aspects of the joint venture.

Plans for Development and Operation (PDO)

In the event that the joint venture makes a discovery suitable for production, a Plan for Development and Operation (PDO) must be submitted to the MPE. If the estimated investment costs exceeds NOK 10 billion, the PDO must also be submitted for approval by the Norwegian Parliament. An additional plan for Installation and Operation (PIO) is required if the project includes pipelines or onshore terminals.

A PDO/PIO consists of a development plan and an impact assessment. The development plan sets out estimated costs and a production profile for the deposit. The impact assessment provides an overview of possible impacts on the environment, fisheries and overall society. The impact assessment is sent to all parties who might be affected by the proposed petroleum project in order to ensure that all arguments are taken into account during the decision making process. Detailed guidelines for PDO/PIOs can be found on the MPE's website.

2.5 Phases of petroleum activities

The phases of the petroleum activities may be described as follows:

· Exploration

As mentioned above, companies must obtain a production licence in order to participate in the production of oil and gas on the NCS. Production licences are generally awarded with an initial period of up to ten years. This period is usually reserved for exploration activity. In this period, the licenscees are required to carry out geological activities and exploration drilling as a part of an obligatory work programme.

Exploration drilling requires consent from the PSA, and the operators must submit detailed information regarding technical and environmental aspects of the planned operation before the drilling can commence. Furthermore, requirements set out in HSE-regulations must be complied with. Lastly, the operator must acquire the relevant permits regarding discharge of pollutants to sea and air from the Norwegian Climate and Pollution Agency, a subordinate agency of the Norwegian Ministry of Climate and Environment.

· Development and operation

If the exploration activities leads to a discovery and the licenscees wish to continue with production, the production licence is extended by the MPE. The extension period is usually thirty years. This concludes the beginning of the development- and operational phase. However, before production activities can commence, each planned project within the licenced area must be approved by the MPE. Projects of a certain size or importance might be subjected to debate in the Parliament prior to approval.

The companies are also required to submit the PDO and/or PIOs for approval before the production can start. Based on the PDO, the Norwegian Petroleum Directorate issues annual production permits with defined volumes of production.

Licenscees in the joint venture can choose not to participate in the development phase. This does not affect the other licenscees' right to carry out the project. The non-participating licenscee retains its rights to areas outside the PDO.

· Cessation of petroleum activities

The licenscees are required to submit a decommissioning plan to the MPE two-five years before the production licence expires or the use of the petroleum installation ceases. The decommissioning plan consists of an impact assessment and a plan for disposing the installations. The impact assessment provides an overview over possible consequences of the shutdown for the environment and other factors. The disposal plan contains a plan for the cessation of the activities and disposal of the installations.

In addition to the national regulatory framework, Norway is bound by the OSPAR Convention (Oslo Paris Convention for The Protection of the Marine Environment of the North-East Atlantic, decision 98/3). The OSPAR convention requires offshore installations to be removed, with limited exceptions. The licenscees are liable for the decommissioning costs, which are tax deductible.

Storstromsbroen in Sweden, connecting Norway, Sweden and Denmark together.

2.6 Transferring participating interests

Participating interests in petroleum licences can be transferred upon approval by the MPE. This also includes share transaction where the buyer passes thresholds of approx. 33.3%, 50%, 66.7% and 90%. The MPE's approval is based on similar conditions as the licence application process. The transfer also needs approval by the Norwegian Ministry of Finance for tax purposes. The main rule is that the transaction should be tax neutral. Transactions can also effect other regulatory approvals, such as approved change of operatorship from the Norwegian Ministry of Oil and Energy and HSE-related permits from the Petroleum Safety Authorities.

Transactions of participating interests does not require consent from the other licence partners as long as the compulsory work obligations are fulfilled. Prior to this, approval from the management committee of the licence is required.

In the event that a petroleum deposit extends over more than one production licence, the licenscees must enter into an unitisation agreement (unit agreement). Such unit agreement governs the rights to the discovery. The unit agreement replaces the JOA and divides the owner's rights in accordance with the physical distribution of the deposit between the licences.

It is worth noting that sellers of participating interests in production licences also remain secondary liable for decommissioning costs. This entails a financial obligation to contribute to the licence if the buyer fails. In this regard, it is common for buyers and sellers to enter into decommissioning security agreements protecting the seller from such liability.

VII. Employment

VII. Employment

1. General

Norwegian employment law is codified, in particular, by the Norwegian Working Environment Act of 2005. The Norwegian Working Environment Act applies to all employees including employees in leading positions and managing directors. As a rule, it also applies to employees working in Norway for foreign employers. The Norwegian Working Environment Act regulates matters such as limits on working hours, requirements for employment contracts, redundancies and dismissals, working environment, employer obligations and employees' status and rights in connection with business transfers (asset deals).

2. Working hours

As a rule, the normal working hours must not exceed nine hours per 24 hours and 40 hours per seven days.

However, the employer and the employee may agree in writing that these working hours can be exceeded, provided that they, during a period not exceeding 52 weeks, on average are not longer than nine hours per 24 hours and 40 hours per seven days. Under such written agreement, the working hours may be prolonged to 10 hours per 24 hours and 48 hours per seven days. The extended limit of 48 working hours per seven days may be averaged over a period of eight weeks, provided that the normal working hours do not exceed 50 hours in any single week.

In undertakings bound by collective agreements, the employer and the employees' elected representatives may agree in writing that the average calculation of normal working hours can be prolonged to a maximum of 12.5 hours per 24 hours and 48 hours per seven days. The limit of 48 working hours per seven days may be averaged over a period of eight weeks, provided that the normal working hours do not exceed 54 hours in any single week.

Furthermore, the Norwegian Labour Inspection Authority may consent to normal working hours that on average, during a period of maximum 26 weeks do not exceed 13 hours per 24 hours and 48 hours per seven days. The limit of 48 hours per seven days may be calculated according to a fixed average over a period of eight weeks, evading the maximum limit of 54 hours in any single week. The Norwegian Labour Inspection Authority may, however, not consent to arrangements violating the limits for daily and weekly off-duty time.

Work exceeding the limit for ordinary working hours is overtime. Such work can only take place when there is an exceptional and time-limited need for it. Overtime work must not exceed 10 hours per seven days, 25 hours per four consecutive weeks or 200 hours during a period of 52 weeks.

Again, in undertakings bound by collective agreements, the employer and the employees' elected representatives may agree in writing on extending the limits for overtime, but not longer than 20 hours per week provided that total overtime does not exceed 50 hours per four

consecutive weeks, and 300 hours within a period of 52 weeks.

In addition, the Norwegian Labour Inspection Authority may allow extended limits for overtime to 25 hours a week and 200 hours within a period of 26 weeks.

3. Employment contracts

All employment contracts must be issued in writing. In employment relationships with a total duration of more than one month, a written employment contract must be entered into as soon as possible, and no later than one month following commencement of the employment. In employment relationships with a shorter duration than one month, a written employment contract must be entered into immediately.

The employment contract must state all factors of major significance for the employment, including:

- the identities of the parties to the contract
- the place of work, or, if there is no fixed or main place of work, information to the effect that the employee is employed at various locations and stating the registered place of business or, where appropriate, the address of the employer
- a description of the work or the employee's title, position or category of work
- the date of commencement of the employment
- the expected duration of the employment, if the employment is of a temporary nature, as well as the reason for the temporariness
- provisions, where appropriate, in relation to a trial period of employment
- the employee's right to holiday and holiday pay and the provisions concerning the fixing of dates for holidays
- the period of notice applicable to the employee and the employer
- the applicable or agreed salary at the time of commencement, any supplements and other remunerations not included in the salary, for example pension payments and allowances for meals or night time work, way and timing of payment
- the duration and timing of the agreed daily and weekly working hours, provided that the employment contract shall, if the work is to be performed periodically, state or give the possibility to assess when the work shall be performed
- duration of breaks
- if applicable, agreement concerning working hour arrangements
- information regarding possible collective agreements concerning the employment relationship

4. Age limits

The Norwegian Working Environment Act contains rules regarding age limits that regulate the employer's right to dismiss employees due to age. The ordinary limit for employment is 72 years of age.

However, each individual undertaking may set a (lower) internal age limit for dismissals, provided that the internal age limit, as a rule, cannot be lower than 70 years of age, that the internal limit is known by the employees, that the limit is practised consistently by the employer and that the employee has the right to a sufficient occupational pension scheme. It will, however, be possible to have a lower age limit when this is necessary due to health or security considerations in the work place.

5. Redundancies and dismissals

Employees in Norway benefit from strong legal protection. It is therefore of great importance to act in compliance with required procedures and to take into consideration the rules of the Norwegian Working Environment Act when considering dismissal of employees.

However, the rules regarding redundancies and dismissals do not apply to the chief executive (managing director) if the executive in a written agreement has relinquished such rights in return for pay after termination of employment.

5.1 Justified dismissal

Employees may not be dismissed unless the dismissal is justified by circumstances relating to either the employer or the employee. The provision is based on individual objectivity, which entails that the dismissal has to be justified in relation to the individual employee.

Dismissal due to cuts in production, reorganisation and similar events are usually considered justified providing that the employer does not have any other suitable work to offer the employee within the enterprise. The employer must therefore consider whether other suitable forms of work exist.

Norway has an excellent network of over 50 airports making it easy to travel to and from for domestic and international business trips.

When dismissals are due to reorganisation and downsizing, the employer must also weigh the needs of the enterprise against the disadvantages caused by the dismissal for the individual employee. Alternative solutions must be considered, i.e. relocating the employee, reducing hours etc. The employer also has to exercise great care when selecting which employees are to be given notice. Relevant factors when selecting redundant employees are the length of service, qualifications and social conditions.

A dismissal due to a breach of the employee's obligations under the employment contract or of any other work related duties may be considered justified, if the procedures prescribed by law are followed and it seems reasonable to end the employment after a consideration of the needs and interests of the employee and employer.

The employer may summarily dismiss an employee if the employee is guilty of a gross breach of duty or other serious breach of the employment contract.

5.2 Employee discussions

Prior to making a decision regarding dismissal, the employer shall, to the extent that it is practically possible, discuss the matter with the employee and the employees' elected representatives, unless the employee does not desire this. The purpose of the discussion is to ensure that the decision is made on the correct basis. The employee should be informed about the reason for the meeting in advance, and should be informed about the right to bring an elected representative or another counsellor, i.e. a lawyer.

In the meeting, the employer must explain the reason for the dismissal. The employee is to be given the opportunity to give his or her point of view. In addition, the employer should seek information on the employee's potential social conditions, i.e. any family responsibilities, which may be taken into consideration in the balance of interests.

Employee discussions as described above must also take place before making a decision regarding summarily dismissal.

5.3 Notice and notice period

Notice of dismissal must be delivered in writing. Notice from the employer must be given to the employee personally or sent by registered mail to the address provided by the employee. It is advisable to deliver the written notice to the employee in person and to have the employee sign a copy as evidence that the employee has received the written notice and the time when the notice was received.

The notice period depends on the employee's age and seniority and varies from one to six months. The notice period starts from and includes the first day of the month following the month in which notice was given.

During the notice period, the employer is obliged to offer work to the employee, and the employee is obliged to work, unless the parties agree otherwise.

When a summarily dismissal is given, there is no notice period. As a rule, the employee will have no right to salary and work after receiving a summarily dismissal.

5.4 Claims of wrongful dismissal

If the employee is of the opinion that the dismissal is wrongful, the employee may request negotiations with the employer within two weeks of receiving the notice.

Furthermore, the employee may sue the employer within eight weeks of the date on which the negotiations were concluded, or if negotiations were not held, within eight weeks of receiving the notice.

If the employee sues the employer, the employee will be entitled to continue his work until the courts of law have made a final decision in the matter, i.e. until the possibilities for appeal have been exhausted, or until the time limit for appeal has lapsed. However, on request by the employer, the courts may decide that the employee shall not continue to work if it is unreasonable that the employment continues while the case is in progress. The employee's right to continue working does not apply to disputes concerning summarily dismissal.

If the employee only claims compensation for wrongful dismissal, and not reinstatement, the time limit for requiring legal proceedings is six months.

6. Trial period

The employer and employee may agree that the first period of employment is to be regarded as a trial period. This must be included in the employment contract. The purpose of such a trial period is a mutual right to see how the parties work together. The maximum trial period is six months. Unless otherwise stated in the employment contract or in a collective agreement, the notice period during the trial period is 14 days.

Dismissal during the trial period must be on the grounds of the employee's lack of suitability for the work, or lack of proficiency or reliability. However, the employee may still be given notice due to circumstances relating to the employer or the employee.

7. Temporary engagements

As a rule, employment relationships must be permanent. However, it is accepted that temporary engagements are necessary in some cases. Examples of permitted temporary engagements include:

- if the work is of temporary nature
- as a temporary replacement for another person or persons
- for a period of no more that 12 months (general permission)

The general permission for temporary engagements for no longer than 12 months is supplemented with restrictions as follows:

- quota-employees hired without special reasons cannot exceed more than 15% of the undertaking's work force, however, provided that all undertakings will, independent of their size, be allowed to have at least one employee hired under a temporary engagement
- quarantine – if the employee does not get permanent employment in the undertaking, the employer must go thorough a quarantine period of 12 months before the same or another employee can be hired to preform work tasks of the same character
- work hours – individual agreements entailing a calculation of average normal working hours shall not be allowed entered into by temporary employees hired without special reasons

Unless otherwise agreed in writing or laid down in a collective wage agreement, temporary employment contracts shall expire at the end of the agreed period or when the specific work is completed. An employee who has been employed for more than one year shall receive written notification of the date on which the employment terminates, not later than one month prior to such date. If the time limit is not observed, the employer cannot require the employee to leave until one month after notification has been given.

If the provisions for temporary engagements are not fulfilled, the employee may demand that the employment be considered permanent. This question may be decided by the courts of law. In the event that the temporary engagement is considered unlawful, the employee may also claim compensation.

Norway implemented the Temporary Employment Agency Directive No 2008/104/EC in July 2012. The purpose of the directive is mainly to improve the working conditions of employees who are not employed by, but only hired-in by an employer. Central element of the directive is the requirement for equal treatment which involves that the salary and further principal working conditions for such employees shall at least be equivalent to the conditions they would have if they were permanently employed by the employer to perform the same type of work.

The principle of equal treatment applies to both private and public employers when hiring-in manpower, both from Norwegian and foreign temporary employment agencies. The formal employer – the temporary employment agency – shall ensure that the employees are granted the working conditions as provided for in the directive.

8. Non-compete clauses

The Norwegian Working Environment Act defines a non-compete clause as an agreement between an employer and an employee which limits the employee's right to commence a position with another employer or start, run or participate in other businesses after the employment is terminated.

The non-compete must be concluded in writing to be valid, and only be invoked as long as it is necessary to protect the employer's particular need for protection against competition. The clause may not in any case be exercised longer than one year from the termination of employment.

A non-compete clause may not be invoked due to termination given by the employer, unless the dismissal is justified objectively by circumstances relating to the employee. The same applies

if the employer breaches obligations in the employment relationship and this has given the employee reasonable cause to terminate employment.

The employer may at any time during the employment, terminate the non-competition clause. Termination may not occur in the period the employer is bound by the disclosure mentioned below. After termination of the employment, the employer and employee may enter into a written agreement that the non-competition clause no longer shall apply.

The new regulation introduces a requirement of disclosure, which entails that the employer, upon written request from the employee or if the employment is terminated upon request from either party, must disclose whether the non-compete clause will be invoked. A non-compete obligation falls away if the requirements of disclosure are not met.

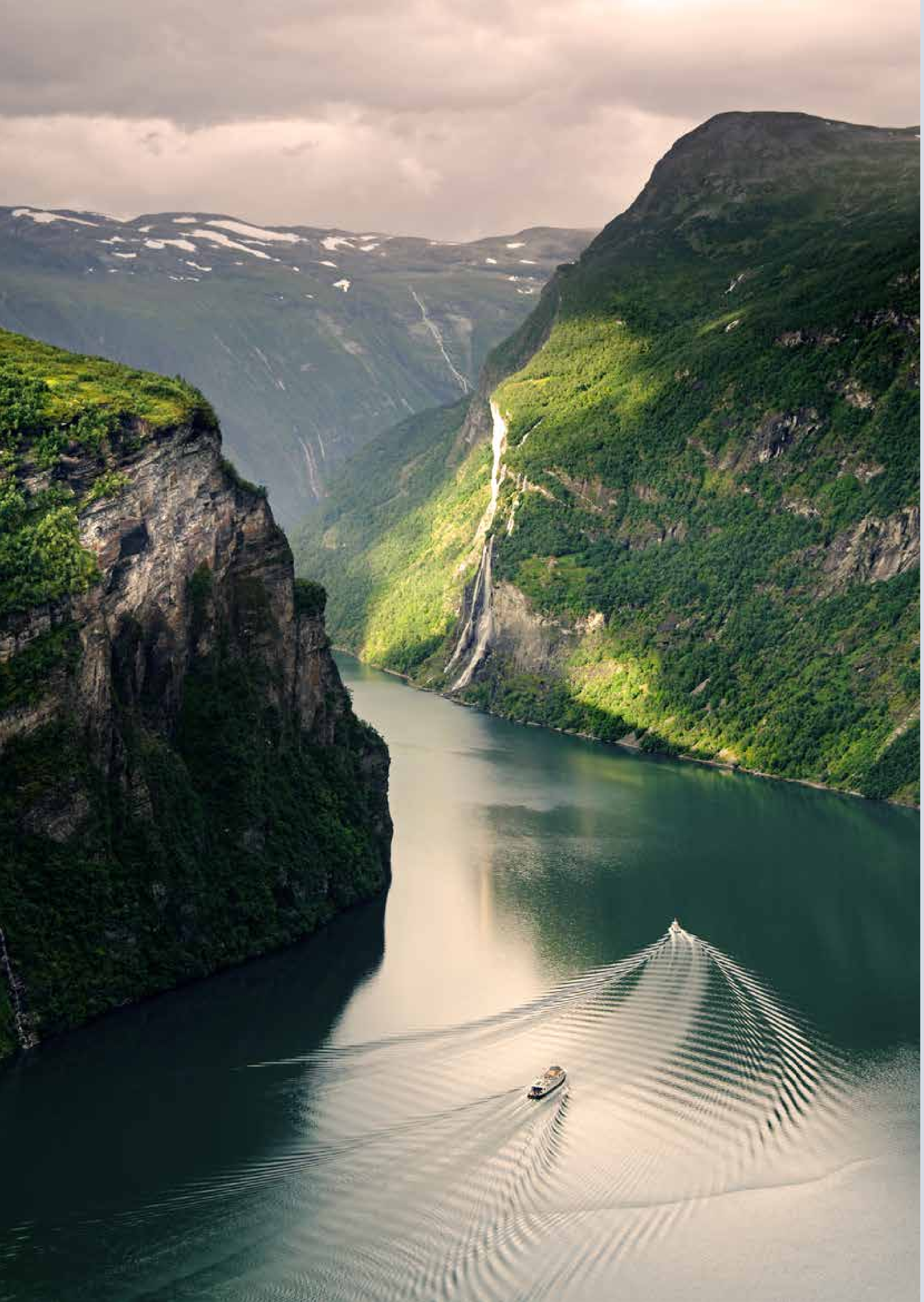
If the clause is invoked, the employee is entitled to receive a compensation equivalent to 100% of regular salary. However, as to any portions of the regular salary higher than the amount equal to eight times the Norwegian national insurance scheme base rate which currently amounts to NOK 96,883, the compensation is reduced to 70% of the regular salary. The compensation is to be calculated on the basis of the employee's salary for the last 12 months. The total compensation may be limited to an amount equal to 12 times the Norwegian national insurance scheme base rate.

Dog sledding in Svalbard.

The employer may deduct no more than half of the compensation for remuneration or income received by the employee during the period the non-compete clause is effective. The employer may require the employee to disclose remuneration or income during the period. If the employee fails to comply with the requirement, the employer may withhold compensation until the information is submitted.

The Norwegian Working Environment Act also includes regulations regarding "customer clauses". For such "customer clauses" the same regulation as for non-compete clauses must be followed when an employer and an employee enter into an agreement which limits the employee's rights to contact the employers customers after termination. However, the employee does not have any claim for compensation if such clause is agreed upon.

The rules regarding non-compete and customer clauses do not apply to the chief executive (managing director) if the executive in a written agreement has relinquished such rights in return for pay after termination of employment.



The values of the Norwegian work life stimulate productivity and innovation. Some key elements are little hierarchy, flat structures, open communication and cooperation. There is a high degree of trust between employer and employee, making people feel empowered.

Gender equality is stimulated and the participation of women in the work life is one of the highest in the world. It is possible to have a good balance between workand private life in Norway.

9. Holiday payments

According to the Norwegian Holiday Act of 1988, employees are entitled to at least four weeks and one day of vacation. The normal holiday entitlement in Norway is, however, five weeks. During the holiday period, employees do not receive any salary, instead they receive holiday pay. Holiday pay is earned on the basis of the salary for the previous year. Holiday pay amounts to 10.2% of the salary for the previous year in cases where the holiday is four weeks and one day, and 12% in cases where the holiday is five weeks. This means that during the first year of employment an employee is not entitled to any holiday payments and in the second year the holiday pay is pro-rata for the period the employee worked in the first year.

According to the Norwegian Holiday Act, employees are entitled to at least 4 weeks and 1 day of vacation.

The employee may postpone and transfer days of vacation if the employee is sick during the agreed holiday period. The employer and employee may also agree to transfer up to 12 days of holiday to the following year.

10. Pensions

10.1 Minimum requirements

According to the Norwegian Act on Mandatory Occupational Pensions of 2005, Norwegian employers have to ensure occupational pension for their employees.

All employers with a minimum of two employees, each with working hours and a salary of 75% or more have to provide a pension scheme. This also applies to all employers with at least one employee who does not have ownership interest in the employer company, with working hours and salary of 75% or more, as well as all employers with employees, each with at least 20% working hours and salary if these employees together make up for at least two fulltime positions.

The following minimum requirements apply to the pension scheme:

- the contribution amount shall be set at a minimum of 2% of the employees' salary, between one and 12 times the Norwegian national insurance scheme base rate which currently amounts to NOK 96,883
- the costs from the pension scheme shall be covered by the employer
- the pension savings shall continue even if the employee becomes disabled

10.2 Pension schemes

The employer is allowed to choose between a defined contribution scheme, a defined benefit scheme or a so-called hybrid pension scheme.

A defined contribution scheme is a pension scheme where the employer, each year, sets aside an amount based on a percentage of the employees' salary at a minimum of 2%. The defined benefit scheme is a pension scheme where the employer decides on the future pension level for the employees at the time when they reach the pension qualifying age, often between 60% and 70% of the salary after deduction of payments by the Norwegian national insurance scheme. The defined contribution scheme is a far more predictable solution for the employer, whilst the defined benefit scheme may lead to greater uncertainty for the employer regarding the annual payments.

The third type – the hybrid pension scheme – is a mix of the defined contribution scheme and the defined benefit scheme which combines the benefits from the other two pension schemes.

10.3 Change of pension scheme

Many employers see the need to change their pension scheme from a defined benefit scheme to the more predictable defined contribution pension. As a rule, a change such as this is allowed.

This basically implies that the employer can unilaterally modify the employees' pension scheme. The prerequisite is that the employer has not, by agreement or otherwise, committed itself to maintaining the existing pension scheme. To determine whether the employer is entitled to unilaterally modify the pension scheme, a specific evaluation of the contractual relationship between employer and employees must be implemented.

10.4 Transport of pension

If an employee leaves the employer, the employee will receive a pension capital certificate (a so-called paid-up policy) if the employee has been a member of the pension scheme for 12 months or more. This capital may normally be transferred to a new employer, but it is also possible for the employee to continue saving on the employee's own account. If the employee has been employed for less than 12 months, as a rule, the saved up funds will be transferred back to the employer.

10.5 Pensionable income

The pensionable income is basically all taxable income from personal services. Whether varying additions such as bonuses are to be included in the pensionable income must be assessed specifically.

The Arctic Cathedral in Tromsø.

Pension schemes that meet the statutory requirements are tax-favoured. The employer obtains tax-deductible expenses while the employees avoid taxation of payments and returns during the saving period. Pensions paid out are taxed as pension income, i.e. with low contributions to the Norwegian national insurance scheme.

11. Foreign employees

In order to work in Norway, most foreign employees will need to acquire a residence permit which includes a right to work. Work is defined as any kind of work or business activity, whether for remuneration or not.

Employees may apply for a residence permit from within Norway. Employees in enterprises from EU/EEA member countries, who are performing services in Norway on a temporary basis, can work in Norway without a permit for up to three months. If the stay is going to last for more than three months, a residence permit with a right to work is required. Applications for residence permits which include the right to work must be filed with the local police station if the employee is already living in Norway. Otherwise, the application should be filed with a Norwegian foreign service mission.

Citizens from the EU/EEA member countries may enter Norway freely, and take up employment right away. They may stay and work in Norway for up to three months without a residence permit. For employment lasting longer than three months, they need to apply for a residence permit which includes a right to work. If they are seeking employment, they may stay in the country for six months without such a permit.

Again, applications for residence permits which include the right to work must be filed with the local police station if the employee is already living in Norway. Otherwise, the application should be submitted to a Norwegian Foreign Service mission. The employee will also receive a D-number which is a registration number for foreign nationals in Norway, who are not registered

Holmenkollbakken is a large ski jumping hill located at Holmenkollen in Oslo, Norway. Holmenkollan has hosted the Holmenhollen Ski Festival since 1892, which since 1980 have been part of the FIS Ski Jumping World Cup, the FIS Nordic Combined World Cup since 1983.

in the Norwegian National Register, and therefore have not been assigned a Norwegian national identification number. The D-number is required when communicating with public authorities and when carrying out certain transactions in Norway, such as opening a bank account.

Both Norwegian and foreign employees must be registered in the Register of Employers and Employees (Aa-register) at the Norwegian Social Security Authority (NAV). Foreign employees working on construction or building sites or the Norwegian continental shelf are exempt from this requirement. They should be reported to the Central Office – Foreign Tax Affairs (SFU or SUA – Servicesenter for utenlandske arbeidstakere).

12. Business transfer

In the event of a business transfer (asset deal), the employees being part of the business are transferred from the seller to the buyer by operation of law. The provisions of the Norwegian Working Environment Act which apply to such business transfers are based on the European Directives Nos 77/187/EEC, 98/50/EC and 2001/23/EC.

The significant test for the application of these provisions is as to whether:

- the business being transferred represents an independent economic unit
- such unit is transferred to a new owner
- the unit keeps its identity subsequent to the transfer

However, the employees may object to the transfer (objection right). If such objection were to occur, it would result in the employees not being transferred to the buyer.

If an employee objects to the transfer to the buyer, the employment relationship will be terminated and, thus, will not continue with the seller. However, if later on, the seller intends to hire a new employee for the same position, the former employee may claim to be preferred, i.e. to be hired instead of any third persons (preference right). Such claim must be made within a period of one year from the business transfer.

If no objection is made within the applicable time period, the consequence is that the employee is regarded as employed by the buyer. If the employee then does not wish to be employed by the buyer, the employee may terminate the employment relationship by giving termination notice to the buyer, subject to applicable notice periods. However, if the employment conditions are changed by the buyer essentially, the employee may claim his employment relationship to be continued with the seller. This right is not set forth in the Norwegian Working Environment Act, but based on decisions by the Norwegian Supreme Court.

Neither the seller nor the buyer may dismiss employees due to the business transfer alone. However, the surplus of employees, which may arise for the buyer as a result of the transfer, may be solved by redundancies. The buyer, however, must follow the Norwegian Working Environment Act's requirements for objective termination reasons and the procedure that the act otherwise requires.

VIII. Tax

VIII. Tax

1. Corporate income tax

Companies that are tax resident in Norway are subject to a corporate income tax of 22% on their net tax income.

Special tax regimes apply to income from the exploration of petroleum resources, shipping income and income from the production of hydropower.

Companies resident in Norway are taxed based on their worldwide income unless income is exempt under an applicable tax treaty. Non-resident companies are taxed based on their Norwegian source income only. For tax purposes, partnerships are considered as transparent and taxation is therefore done on the partners' level.

Companies tax resident in Norway are subject to a corporate income tax of 22% on their net tax income.

2. Taxation of resident companies

2.1 General

As a main rule, taxable profit is calculated based on the financial statements, but is adjusted for differences between the accounting rules and the tax accounting rules, mainly differences in the timing of income and deductions, and the size of the yearly depreciations.

2.2 Income

Taxable income includes, as a main rule, any income gained from assets or business activities. All kinds of income, including interests, dividends, capital gains on the disposal of assets or ownership interests, as well as foreign-sourced income taxable in Norway, are included in the taxable corporate income. As a rule, the participation exemption method is applicable for dividend income and gains on shares and partnership interests.

A benefit is recognised as income in the year in which such benefit accrues to the taxpayer. Any benefits accrued by transfer from others shall be recognised as income upon the taxpayer becoming unconditionally entitled to such benefit.

Income derived under contracts is considered accrued when the taxpayer is entitled to the contribution from the other party under the contract, i.e. when the taxpayer has delivered the goods or services under the contract.

2.3 Expenses

Costs incurred to acquire, maintain or safeguard taxable income are tax deductible. There are certain rules, however, that either limit or extend the scope of this main rule. Bribes and similar payments, even if the expenses incur in a jurisdiction in which such payments are accepted, are not tax deductible.

Dividend payments are distributions of profit and is considered to be a non-deductible expense for the distributor.

Costs incurred to acquire income that is exempt from tax liability pursuant to the participation exemption method, for example dividends, gains on shares etc., are tax deductible. Acquisition and divestment costs are, however, not deductible, irrespective of whether the acquisition or divestment is actually effected or not.
Expenses are deductible in the year in which the taxpayer becomes unconditionally obliged to cover or discharge such cost and, as a rule, in the year in which the expenses incur. However, this does not apply for pre payments and certain long term and significant assets, which must be activated and then deducted in future income years.

Costs related to fixed assets with a shorter economic life than three years, or fixed assets with a lower cost than NOK 15,000 are deductible in the year of acquisition. Costs for own research and development relating to specific projects that may become or have become fixed assets, shall be considered part of the cost of the relevant fixed asset.

There are two alternative methods to determine the deductible amount:

- the declining balance method which in general applies to tangible assets and goodwill – the rates vary from 2% to 30%

- the linear method which applies to intangibles that are not covered by the declining balance method

Land and plots are not depreciable.

2.4 Interest limitation rule

The interest limitation rules entered into force in 2014. The rules impose a limitation on the deductibility of interest expenses. Initially, the limitation rules applied only to interest expenses on debt to related parties, but as of January 2019, the rules have been extended to include interest expenses on external debt for companies being part of a consolidated group.

For companies being part of a consolidated group, net interest expenses on debt to related and non-related parties that exceeds 25% of EBITDA are non-deductible. However, the limitation rule will only apply if net interest expenses exceeds NOK 25,000,000 for the Norwegian part of the group as a whole.

For companies not being part of a group, net interest expenses on debt to related parties will be cut off if the company's net interest expenses, including interest net expenses on debt to non-related parties, exceed NOK 5,000,000.

Parties are considered related if there is ownership or control of 50% or more of one party by another party. External loans guaranteed by a related party of the borrower (tainted debt) will be treated in the same way as loans to related parties.

For group companies, there is an exemption from the limitation rule through the so-called equity escape clause. The interest limitation rule will not apply if:

- the equity ratio of the company, i.e. the ratio between the company's equity and total assets and liabilities, is no more than 2% lower than the equity ratio in the group accounts, or

- the equity ratio in the group accounts for the Norwegian part of the group is no more than 2% lower than the equity ratio in the group accounts

Thus, company groups with only Norwegian companies are always exempt.

The interest limitation rule applies to limited liability companies and similar other companies and entities. The rule also applies to partnerships, shareholders in controlled foreign companies and foreign companies with a permanent establishment in Norway.

2.5 Capital gains
There is no separate tax on capital gains, and hence capital gains are taxed as ordinary income at the general corporate income tax rate of 22%. As a rule, capital gains equal the selling price less the historical costs, reduced by tax depreciations and expenses.

As for other taxable income, capital gains are recognised as income in the year in which the gain occurs. For capital gains arising from the disposal of fixed assets, Norwegian tax law allows the seller, on certain conditions, to defer taxation on parts of the gain.

2.6 Losses
Operating losses are normally tax deductible in the year in which they occur. Receivables towards companies regarded as related parties are, however, not deductible.

Losses may be carried forward indefinitely, and set off against future profits.

In the case of liquidation, losses may be carried back, and set off against profits of the preceding two years.

2.7 Participation exemption method
Pursuant to the participation exemption method, corporate shareholders are exempt from taxation of dividends and gains on shares except for a clawback of 3% on dividends, if the receiving company owns less than 90% of the shares and voting rights of the distributing company.

The participation exemption comprises dividends and capital gains on shares in companies resident in Norway and the EEA. Dividends and capital gains on shares in companies resident outside the EEA, but not in a low-tax jurisdiction, are also tax-exempt provided that the shareholder has held at least 10% of the shares and capital for a period of two years. Dividends and capital gains on shares in companies in low-tax jurisdictions outside the EEA are not tax-exempt, and losses on such shares will be deductible.

The Norwegian productivity is much higher than the average of the European Union. There are several resons for this. One is the use of advanced technology and a constant focus on productivity due to high labour costs. Another is the extra value from the petroleum sector. It could also be argued that the trust, the flat structures and open communication in the work place play a vital part in enhancing innovation. According to the World Competitiveness Scoreboard from IMD in 2015, Norway was the seventh most competitive country in the world.

For dividends, 3% of the dividends received are subject to the 22% corporate tax, and effective taxation on exempt dividend is 0.66%. The clawback of 3% does not apply to intragroup dividends within a tax group from companies resident in Norway and that have more than 90% ownership in the distributing company, or within the EEA provided that the shareholder has held at least 10% of the shares and capital for a period of two years.

There are no requirements for participation or holding periods for dividends and capital gains on shares of Norwegian or EEA-resident companies for the exemption method to apply. However, companies resident in a low-tax jurisdiction within the EEA must be genuinely established and conduct genuine business within their state of residency (substantial business test) in order for the participation exemption to be applicable.

Capital gains on a partnership's shares are for a corporate partner, tax-exempt if at least 90% of the partnership's investments at all times during the past two years have been in tax-exempt shares. Losses on the partnership's shares are, for a corporate partner, deductible only if the partnership's non-qualifying shares have exceeded 10% of the total value of shares during the previous two years; the tax rules regarding gains and losses on a partnership's shares are asymmetrical. The requirements could lead to double taxation if both the shares owned by the partnership that is not tax-exempt and the partnership shares are sold. For corporate partners resident in Norway, this applies irrespective of where the partnership is registered.

Corporate partners receiving distributions from a partnership's shares are, as for dividends from shares, liable to 22% income tax on 3% of the distributions received after a deduction for the partner's tax on the partnership's share.

Distributions from companies for which the distributing company has been able to deduct the distribution, are not covered by the participation exemption.

3. Special tax regimes

3.1 Petroleum tax

The Norwegian Petroleum Tax Act of 1975 governs all petroleum-related income on the Norwegian continental shelf, provided that the general tax legislation also applies.

The petroleum tax regime is characterised by a very high marginal income tax rate of 78%, which to some extent is balanced by relatively generous tax deductions. These include the immediate expense of all exploration costs, accelerated tax depreciation, an uplift allowance for special tax purposes and a tax deduction for financial costs related to upstream business activity. The income tax under the Norwegian Petroleum Tax Act comprises the ordinary corporate tax rate of 22% and a special tax rate of 56%.

There are no field operation ring-fencing arrangements on the Norwegian continental shelf, and all exploration costs may be deducted. However, the companies may no longer deduct exploration costs abroad from the Norwegian income. The state will give companies in a loss position the choice between a cash refund of the tax value (78%) of the exploration costs, or they may carry the cost forward with interest. When winding up the business on the Norwegian continental shelf, the company will receive the tax value (78% of exploration cost and 22% of all other cost) of any unused losses the company may have.

The income tax under the Norwegian Petroleum Tax Act comprises the ordinary corporate tax rate of 22% and a special tax rate of 56%.

A norm price, set by a separate norm price board, replaces the actual sales price when calculating the taxable gross income from the sale of crude oil, regardless of the actual sales price being higher or lower.

There is no dividend withholding tax on distribution from profits subject to the special tax of 56%.

The Norwegian explorer Roald Amundsen led the first successful expedition that reached the geographic South Pole. Amundsen, his crew and 52 dogs headed for the South Pole on 19 October 1911, and reached their destination on 14 December 1911. The Greenland dogs pulled the sledges both ways.

After the expedition, Amundsen returned to Norway with only one dog – Obersten ("the Colonel"). The others were fed to the crew and the dogs.

3.2 Tonnage tax
For shipping companies, the tax on corporate profits may be replaced by a tax based on the tonnage operated by the company.

Elaborate ring-fencing arrangements limit the benefit of tonnage tax on the operation of ships, and companies within the regime may not carry on any other business.

3.3 Hydroelectric power production
In addition to the ordinary income tax rate of 22%, hydroelectric power production companies are subject to a 37% natural resource rent tax, so that the total tax rate amounts to 59%. An amount equal to the normal rate of return on the investment is shielded against the additional tax. Further, the hydroelectric power production companies are subject to a municipal resource extraction tax of NOK 0.013 per produced kwh.

3.4 Financial activity tax
A financial activity tax was introduced in 2017 for the financial sector. For enterprises defined as financial institutions, the corporate tax rate is 25% even if the ordinary corporate tax rate is 22%. Financial institutions also have a 5% tax imposed on their total salary costs.

3.5 SkatteFunn
SkatteFUNN is a research and development tax incentive scheme that entitles all enterprises being subject to Norwegian taxation to a tax deduction of expenses related to research and development. However, this applies within certain limits and assumes that certain conditions are met, such as the research programme has to be approved by the Research Council of Norway.

4. Taxes on assets

Norwegian incorporated companies do not have to pay any wealth tax on their net assets. As Norway due to the freedom of capital under the EEA treaty with EU cannot discriminate companies incorporated in other EEA-states, the same applies to such companies as well.

However, in many municipalities, companies have to pay a local municipal real estate tax.

5. Employer contributions

Employers with employees working in Norway are required to pay employer contributions on the gross remuneration received by the employees, including benefits in kind and pension contributions. An employer resident abroad is also required to pay employer contributions in respect of employees working in Norway, subject to a possible exemption. Employer contributions are deductible for corporate income tax purposes.

The rate of employer contributions depends on where in Norway the business is carried out. The general rate is 14.1%, but reduced rates apply to certain regions and municipalities in northern Norway and other sparsely populated areas. There are 5 zones with reduced rates of 10.6%, 7.9%, 6.4%, 5.1% and 0%.

6. International aspects

6.1 Resident companies
Companies incorporated in Norway under Norwegian corporate law are considered resident in Norway for tax purposes. Companies incorporated under foreign legislation are regarded as resident in Norway if the company is managed from Norway.

If a company incorporated in Norway or managed from Norway is considered tax resident in another country based on a tax treaty, the company is not, however, considered tax resident in Norway.

As a rule, companies are taxed based on their worldwide income.

6.2 Non-resident companies
According to Norwegian internal legislation, non-resident companies are subject to taxation on income from business activities in which the company is engaged or participates in, and which take place in Norway or is managed from Norway.

Taxation according to Norwegian internal law applies to companies tax resident in countries which Norway has entered into a tax treaty with. However, this is only applicable to the extent that Norway has not waived its right to taxation on such income.

Most Norwegian bilateral tax treaties are based on the OECD Model Convention. Generally, companies that are conducting, participating and carrying out business in Norway from a fixed place in Norway, will be considered having a permanent establishment in Norway.

If a company is deemed to have a permanent establishment in Norway, the foreign company becomes liable to tax on all income allocated to the Norwegian business. The allocation of income between a foreign head office and a Norwegian permanent establishment should be calculated according to the arm's-length principle.

Activities on the Norwegian continental shelf related to petroleum resources always constitute a taxable presence pursuant to Norwegian domestic law. The companies are therefore taxable from the first working day. In relation to tax treaty states, the companies may be taxable after 30 days.

Gains on shares realised by non-resident corporate shareholders are not liable to tax in Norway unless the foreign shareholder has a permanent establishment in Norway and the shares are effectively connected to the business activities carried out through the permanent establishment. However, the gains will not be subject to tax if the investment is covered under the participation exemption method.

Dividends paid to foreign shareholders are, as a main rule, subject to a 25% withholding tax. However, corporate shareholders resident in EU/EEA countries are tax exempt under the participation exemption method. Furthermore, the withholding tax rate will normally be reduced to 15% or lower when paid to corporate shareholders resident in tax treaty states. Interest and royalties paid to foreign companies are not subject to withholding tax for the time being. However, in accordance with the BEPS-initiative, the Norwegian government has, in a white paper to the parliament, suggested that withholding tax both on interest and royalties shall be introduced. Such rules have not yet been adopted.

7. Exit

An individual is subject to exit tax on any gains on ownership interests in shares, equity certificates, partnership shares, subscription rights etc., which are owned by the individual on the date on which tax liability to Norway is discontinued according to Norwegian law or under a tax treaty. The gain will be taxable at market value as if the share/ownership interest was divested on the last day before this date. If the total gain for all taxable shares and ownership interests, after deduction of any deductible loss, do not exceed NOK 500,000, there will be no taxation.

Individuals may be granted a deferral with the payment if satisfactory collateral is furnished in respect of the tax liability. Upon relocation to another EEA state, a deferral shall be granted without the furnishing of collateral if Norway may, under an international law treaty, require the disclosure of information from the said state on the income and wealth of the taxpayer, as well as enforcement assistance. The tax liability will lapse if the taxpayer has not divested the share or ownership interest within five years.

When a company ceases to be resident in Norway for tax purposes, pursuant to Norwegian internal law or pursuant to a tax treaty, any gains on assets owned by the company are taxable and losses tax deductible as if such assets were divested on the last day prior to its removal. However, tax liability according to this rule shall only apply in cases where the company becomes resident in a state outside the EEA, or becomes resident in a low-tax jurisdiction within the EEA. Further, such company must not be established and conducting genuine economic activities in Norway after relocating abroad.

Even though the individual or company is still tax resident in Norway, exit taxation can occur on certain conditions on gains on assets or liabilities that are removed from Norwegian tax jurisdiction. Gains shall then be taxable as if such asset or liability was divested on the last day prior to its removal. However, gains will not be taxable if the gain on the asset is NOK 5,000,000 or less, or if the total gain on assets within the same asset group does not exceed NOK 5,000,000. Taxpayers may claim deferral of the tax payment if the taxpayer is resident in Norway or is deemed to be tax resident in another EEA state.

8. Group taxation

There is no consolidation of groups for tax purposes, but relief for losses may be claimed within a group by way of group contributions. Group contributions are deductible for the contributor and taxable income in the hands of the recipient.

If a resident company holds more than 90% of the capital and votes of another resident company, the two will constitute a tax group.

Each company within a tax group is, as a rule, treated as a separate entity, and assets, dividends, interest, income and deductions cannot be moved between companies. However, within a tax group, the participating companies may make tax-deductible group contributions and intra-group transfers of assets without achieving immediate realisation of latent gains, i.e. the taxation is deferred. The tax deduction for a group contribution is conditioned by the contribution not exceeding the taxable income of the contributor.

A company resident in the EEA may be the parent company in a Norwegian tax group, and a permanent establishment of a company resident in either the EEA or in a state which Norway has a tax treaty with, may also qualify for the tax grouping benefits.

9. Transactions

Mergers and demergers are, subject to certain requirements, allowed to be tax-free if all the companies involved are resident in Norway. Mergers will, if they are carried out in accordance with applicable Norwegian tax law, have continuity for tax purposes and thus maintain their tax positions.

Cross-border mergers between companies within the EEA may be carried out tax-free if the transaction is carried out pursuant to the principles for fiscal continuity applicable in the state where the assigning company is resident.

Mergers and demergers are, subject to certain requirements, allowed to be tax-free if all the companies involved are resident in Norway.

If the assets are taken out of Norway, the assets will be liable to tax upon exit. Cross-border mergers and demergers will not be tax exempt if one or more of the companies taking part in the merger or demerger is resident in a low-tax jurisdiction within the EEA, or if the company or companies do not fulfil the substance requirements.

10. Transfer pricing

10.1 General

Transfer pricing refers to the pricing of transactions between related parties, both domestic and cross-border transactions. Any transfer of tangible or intangible property or any provision of services or financial instruments within multi-national groups will trigger transfer pricing issues. Transactions between affiliated companies are to be priced in accordance with the arm's-length principle.

10.2 Reporting and documentation requirements

Transfer pricing documentation rules impose an obligation for companies to prepare specific transfer pricing documentation as an attachment to their tax returns.

Reporting requirements and transfer pricing documentation rules apply to companies that own or control, directly or indirectly, at least 50% of another legal entity. A Norwegian permanent establishment with its head office in a foreign country and a foreign permanent establishment with its head office in Norway are covered by the rules. Furthermore, partnerships where one or more of the partners are taxable in Norway are also covered by the rules.

The taxpayer must generally be prepared to file transfer pricing documentation (type and volume of the transactions, functional analysis, comparable analysis and a report of the transfer pricing method used) within 45 days of a written notice from the tax authorities.

10.3 Thin capitalisation

Norwegian tax law contains no specific statutory or regulatory prescriptions on thin capitalisation but refers to the arm's-length principle. All interest paid is deductible. However, the interest limitation rules as described above limit the deductibility. In general, the tax authorities may also contest the deductibility of interest paid to a parent company if the paying company is thinly capitalised. There is no general rule or safe harbour rule prescribing if the company is thinly capitalised or not. The evaluation is based on a number of arguments such as the business sector of the company, the EBITDA of the company, and the debt-to-equity ratio of the company.

11. Partnerships

Partnerships are treated as transparent for tax purposes and taxation is therefore done on the partners' level, regardless of whether there is a distribution or not. However, the income is, as a rule, calculated in the same way as for companies.

For partners covered under the participation exemption method, gains on the partnership shares may also be tax exempt under the participation exemption method. As described above, such gains will be tax exempt provided that no more than 10% of the partnership's investments in shares in companies the last two years are outside the participation exemption method.

A herd of raindeer in Finnmark.

12. Tax administration

Limited liability companies must pay advanced tax by 15 February and by 15 April in the year following the income tax year. In partnerships, the partners must pay advanced tax four times a year, on 15 March, 15 May, 15 September and 15 November.

Advance rulings may be obtained from the Norwegian Directorate of Taxes and from local tax inspectors in respect of direct taxes, employer contributions and value added tax. These rulings will be binding for the tax authorities, but optional for the taxpayer.

The income tax year follows the calendar year, and companies have to file tax returns by 31 May in the year following the income year. As a rule, this also applies to foreign companies operating in Norway. However, the company may apply for a diverging tax year, but a tax year may never include more than 18 months.

Penalty tax will be imposed if the company gives misleading or incomplete information about its income and this results – or could have resulted – in an underassessment. The penalty tax will normally be 20%, but is raised to 40% if misleading or incomplete information was filed intentionally or due to gross negligence.

The statute of limitation period for reassessment to the detriment of the taxpayer is 5 years, but 10 years if the taxpayer has given misleading or incomplete information about the income intentionally or due to gross negligence. The statute of limitation period for changes by the taxpayer in favour of the taxpayer is three years.

13. Anti-avoidance

According to the general anti-avoidance rule, transactions can be set aside if the main motive for the transaction was to save tax and if, according to a general assessment, it appears to be wrong to base the taxation on the transactions as such.

When making the general assessment, certain issues shall be taken into consideration, such as the intrinsic business value of the transactions, the size of the tax benefit, whether the transactions are suitable to obtain the economic objective and whether the transactions can be considered disloyal to the purpose of Norwegian tax legislation.

The anti-avoidance rule also applies to payroll tax, social security contributions, finance tax and VAT issues.

In addition, there is a special anti-avoidance rule that applies in relation to changes in ownership through the sale of shares, mergers, demergers and other transactions. If the predominant motive of such a transaction is to exploit a tax loss carry forward or another tax position, the tax position will be considered void.

14. Taxation of individuals

Individuals who are considered tax-resident in Norway are subject to income tax on their worldwide income unless income is exempt under an applicable tax treaty, regardless of where the income is earned or the asset is located.

According to Norwegian law, a person generally becomes resident in Norway if present in Norway for a period exceeding 183 days during any 12-months' period, or if the stay exceeds 270 days during any 36-months' period.

Norwegian source income from personal services carried out in Norway, including persons sent to Norway by employment agencies, are taxable in Norway from day one unless the income is exempt under an applicable tax treaty.

Initially, the net income is taxed with 22%. This covers employment income as well as capital gains and interest income.

In addition, employment income will be taxed with the following rates:

- 1.9% for any income above NOK 180,800
- 4.2% for any income above NOK 254,500
- 13.2% for any income above NOK 639,750
- 16.2% for any income above NOK 999,550

The social security contribution is 8.2%, and is paid in addition to municipal and national tax. This results in a marginal tax of 46.4%.

Furthermore, individuals have to pay a wealth tax of 0.85% on the net assets that exceed NOK 1,500,000 in taxable value. In addition, in some municipalities, one has to pay tax on real estate located in such municipalities.

Capital gains arising from the sale of shares accrued by individual shareholders will be taxed at a rate of 31.68%.

15. VAT

15.1 General

The Norwegian value added tax (VAT) is a multi-stage, non-cumulative general tax on consumption of goods and services. As most other OECD countries, Norway applies a net consumption VAT, calculated according to the indirect subtraction method, which means that suppliers of goods and services are entitled to deduct from the amount of VAT due on their supplies (output VAT), the amount of VAT incurred on their purchases (input VAT).

As most other OECD countries, Norway applies a net consumption VAT, calculated according to the indirect subtraction method.

The EU member states and the EFTA member states, which are parties to the EEA Agreement, form one single market governed by the same basic rules. However, since taxation, including indirect taxation, is not covered under the EEA Agreement, Norway is not required to harmonise its VAT law with the EU VAT law.

Skiers taking the ski lift at Tryvann ski resort at sunset in January.

15.2 Place of taxation

The Norwegian VAT Act of 2009 does not contain any specific provisions with respect to the place of supply of goods and services. The starting point is the territoriality principle: transactions taking place in Norway are subject to Norwegian VAT, and, vice versa, transactions taking place abroad are outside the scope of Norwegian VAT. This general principle applies to the supply of both goods and services.

In brief, the determination of the place of supply is based on

- the physical location of goods at point of supply
- the actual place of performance of services
- the place of use of services
- the place of establishment of the supplier and the customer
- the status of the supplier and the customer
- the type of services supplied

In general, the place of supply of goods is Norway if the goods are physically located in Norway when sold. If the goods are being transported abroad, the place of supply remains in Norway, but the export sale is zero-rated. On the other hand, the sale of goods physically located abroad is outside the scope of Norwegian VAT. Imports are subject to Norwegian VAT merely by the fact that goods are entering the Norwegian custom's territory from abroad. This generally applies independently of the place where the supplier or the customer is established. The taxation of imports and the zero-rated exports reflect the destination of the goods.

Services physically performed in Norway, for example work on movable assets and real property located in Norway, are generally subject to Norwegian VAT, regardless of whether such services are performed by a resident or non-resident taxable person. On the other hand, services physically performed abroad are not subject to Norwegian VAT. With respect to services capable of delivery from a remote location, the place of supply is abroad if the recipient is resident abroad, and is an enterprise or a public body.

The place of supply for services from abroad, that are capable of delivery from a remote location to a Norwegian enterprise or public body, is Norway if the recipient is resident in Norway. The mechanism for taxing the supply is not the registration of the foreign enterprise in Norway, but the customer accounting for the Norwegian VAT in accordance with the reverse charge mechanism. Entities that are not registered for VAT purposes, apart from private individuals, must calculate VAT on the services purchased from abroad, and file a special quarterly VAT return to the tax office.

Tønsberg Fortress (Tunsberg festning) was a medieval fortress, located in Tønsberg, Norway which was defended by the fortress for over 300 years. The present tower was built during 1888 as a memorial of the historic fortress.

15.3 VAT registration
All companies with an annual VAT liable turnover that exceeds a certain threshold, currently NOK 50,000, are, according to the Norwegian VAT Act, required to register with the Norwegian VAT Register. A registration form must be submitted to the tax office.

Under certain conditions, it is also possible to apply for a pre-registration before the supply commences, or prior to the registration threshold.

Companies that are only engaged in VAT exempt activities are not required or entitled to register for VAT. Certain services fall outside the scope of the VAT, such as lease of real estate. However, it is possible to opt for voluntary registration for lease of real estate for use in a VAT liable activity by the tenant or by a municipality for use in a business that is covered by the VAT compensation scheme.

Collaborating companies may, at their own request, be regarded as one single taxable entity and form a VAT group provided that at least 85% of the capital in each company is owned by one or more of the collaborating companies. Goods and services can be transferred between the VAT group registered companies without charging VAT, as this is not considered to be a supply for VAT purposes. All companies within the VAT group are jointly and severally liable for the payment of VAT. It is necessary to send an application for VAT group registration to the tax office.

15.4 VAT liable and VAT exempt supplies
As a main rule, all domestic supplies of goods and services are liable to VAT. The standard rate of VAT is 25%. Certain goods and services enjoy reduced rates. A reduced rate of 15% applies to foodstuffs and a lower rate of 12% applies, for example, to passenger transport, cinemas, hotel and accommodation services as well as admission fees to museums, amusement parks and sports events.

The zero rate applies to export of goods/services, and a number of other supplies, such as supplies of newspapers and books, supplies of/to certain ships, aircrafts, as well as transfer of business.

View from above Ekebergparken over Sorenga District towards Oslo Cityscape.

Some supplies are VAT exempt. Such supplies fall entirely outside the scope of the Norwegian VAT Act. Businesses that only are engaged in such supplies cannot register for VAT and are not entitled to VAT deduction.

Examples of VAT exempt supplies are financial services, health and social services, educational services, as well as some cultural services such as the right to attend theatre, opera, ballet and concerts. Sale and lease of real estate are also VAT exempt. However, as mentioned above, it is possible to opt for a voluntary VAT registration with respect to lease of real estate.
VAT shall be calculated on the importation of goods. VAT registered companies shall calculate and pay the import VAT in accordance with the reverse charge principles, and the VAT shall be reported in the ordinary VAT return. Companies that are not VAT registered should report and calculate import VAT on the import declaration, and pay the VAT upon importation.

Furthermore, VAT should also be paid on services purchased from abroad that are liable to VAT when sold domestically. The recipient has a duty to calculate and pay the VAT in accordance with the reverse charge principles. VAT liability applies only to the services that can be supplied from a remote location. This entails cases where the provision of the services, by its nature, is difficult to associate with a particular physical location. Examples of remote services are services that can be supplied digitally, consultancy services, administrative services, legal services with an exception for court cases, accounting services, information services and hiring out of labour.

For services that cannot be supplied from a remote location, for example services relating to work on real property or goods in Norway and hiring out of goods, the foreign business enterprise must register in the Norwegian VAT Register and calculate Norwegian VAT on the supply.

15.5 VAT deduction
A business registered in the Norwegian VAT Register is, as a rule, entitled to deduct input VAT on purchases of goods and services for use in the VAT liable business. A pro-rata key must be used for acquisitions that are jointly for use in both VAT liable and VAT exempt business.

A condition for VAT deduction is that the incoming invoice contains certain information as set out in the Norwegian Bookkeeping Regulation.

Input VAT is not deductible for certain costs, such as restaurant meals, entertainment of clients, gifts exceeding a certain value, purchase, maintenance, use and operating of passenger vehicles.

15.6 VAT filing and payment
VAT registered businesses are required to file VAT returns to the tax office. When reporting in the VAT returns to the VAT office, the business has the right to set off all deductible input VAT in the period against all output VAT in the same VAT period.

As a rule, VAT returns shall be filed bimonthly. One VAT return period consists of two months. The deadline for filing VAT returns as well as payment of the respective VAT is one month and two days after expiration of the reporting period. For example, the deadline for the first VAT return period (January and February) is 10 April. The deadline for the third VAT return period is, however, 31 August.

15.7 Capital goods – VAT adjustment rules
Machinery, fixtures, fittings and other operating assets for which the input VAT on the cost price amounts to at least NOK 50,000 are deemed to be capital goods. This limit applies to each individual acquisition. Real estate that has been subject to construction, extension or alteration for which the input VAT amounts to at least NOK 100,000 is also deemed to be capital goods.

In general terms, the provisions mean that the deduction for input VAT shall be adjusted up or down if the connection between the capital goods and activities liable to VAT change during a period of 10 years (real estate) or five years (other capital goods).

Sale and other transfer of capital goods through merger, demerger or transfer of business may trigger VAT adjustment obligations (repayment of previously deducted input VAT). The same applies when a change in the VAT liable use of the capital goods. The VAT adjustment obligations could be transferred to the new owner in a VAT adjustment agreement under certain conditions.

15.8 Non-resident enterprises
In general, the VAT provisions applicable to resident enterprises apply to non-resident enterprises as well.

A foreign enterprise with a place of business in Norway must be registered with the appropriate regional tax office if the enterprise makes supplies that are subject to VAT with a higher value than the registration threshold of NOK 50,000.

A foreign enterprise that does not have a place of business in Norway must be registered through a VAT representative, provided such enterprise makes supplies in Norway that are subject to VAT above the said registration threshold, and the reverse charge mechanism does not apply. The representative must have its residence or place of established business in Norway. The VAT representative and the foreign enterprise are jointly and severally liable for correct reporting and any VAT payable. However, the obligation to have a VAT representative

does not apply if a mutual information and collection agreement has been entered into with the state where the foreign enterprise is established. Such an agreement has been entered into between Norway and most of the EU/EEA member countries. Thus, as a rule, a foreign enterprise established in an EU/EEA member country may register for VAT in Norway without having a VAT representative. However, if the foreign enterprise chooses to have a Norwegian VAT representative, the VAT representative and the foreign enterprise will not be jointly and severally liable for the VAT.

A foreign enterprise that is not required to register for VAT purposes in Norway may nevertheless claim a refund of input VAT paid for goods and services to be used for business purposes in Norway. A refund is granted if the VAT is attributable to an activity carried out by the enterprise abroad, provided that the enterprise would have been required to register in Norway for VAT purposes if the activity was carried out there, and the VAT on the activity would be deductible in accordance with the Norwegian VAT Act. The Norwegian Ministry of Finance may make the refund subject to the condition of reciprocity, i.e. if the home country of the foreign enterprise offers Norwegian businesses the same refund opportunity, although such conditions have so far not been imposed.

15.9 Anti-avoidance rule
In respect of VAT, the general anti-avoidance rule as described above applies as well.

According to the anti-avoidance rule, transactions can be set aside if the main motive was to save VAT and if, according to a general assessment, it appears to be wrong to base the taxation on the transactions as such.

*The Viking Age in Norway lasted from 800 to 1050 AD.
The period is characterised by Viking raids to distant lands. They plundered and pillaged, but also engaged in peaceful trade, built towns, colonised large areas and founded new realms.*

Their voyages were lead by chieftains with superior ships, effective weapons and a warlike religion. The Vikings' ships made European waters unsafe for centuries. These ships were distinctive with their shallow keel so that the ships did not have to rely on finding harbours, but could be drawn ashore.

IX. Intellectual Property

IX. Intellectual Property

1. General

Generally speaking, Norway has ratified most of the international conventions in the field of intellectual property. In addition, Norway has a well-functioning Patent Office that handles patent, trademark and design applications. Also, the Norwegian ordinary courts of law are well equipped to try cases within the area of intellectual property.

2. Patents

2.1 National patents
The Norwegian Patent Office is a public administrative body which considers patent applications filed in Norway and grants Norwegian patents based on patent applications that fulfil the legal requirements. The Norwegian patent system is available both to residents and non-residents of Norway. Patent applications may be filed in the Norwegian language or in the English language. It is also possible to request the use of the English language for the communication between the applicant and the Norwegian Patent Office.

If the Norwegian Patent Office refuses a patent, the applicant may appeal the decision to the Norwegian Board of Appeal for Industrial Property Rights. It is also possible for third parties to file for a post-grant opposition against a Norwegian patent in an administrative proceeding before the Norwegian Patent Office, and a decision by the Norwegian Patent Office may be appealed to the Norwegian Board of Appeal for Industrial Property Rights.

A refusal to grant a patent may also be tried by the applicant before the ordinary courts. It is also possible for a third party to oppose a granted patent before the ordinary courts, or for the patent holder to file an infringement case against an infringing third party.

Patent cases are tried in the ordinary court system. Thus, there are no special patent courts in Norway. However, the District Court of Oslo is the mandatory venue for patent cases in the first instance. All patent infringement cases as well as patent validity cases must be filed before the District Court of Oslo.

2.2 PCT applications
Norway has ratified the Patent Cooperation Treaty (PCT). Therefore, it is possible to file for a Norwegian national patent with an earlier priority date from the PCT application, provided that Norway has been designated in the PCT application. It is also possible to file an English language PCT application with the Norwegian Patent Office.

2.3 EPO patents
With effect from 1 January 2008, Norway ratified the European Patent Convention (EPC), which means that patent applications filed with the European Patent Office (EPO) on or later than 1 January 2008 can be validated in Norway. One of the conditions for validation in Norway is that the patent claims are translated into Norwegian. Additionally, for EPO patents, which are originally in German or French language, the description must be translated into the English or the Norwegian language. A validated European patent enjoys the same protection in Norway as a national Norwegian patent.

2.4 Security interests
With effect from 1 July 2015, security interests in individual patent rights may be registered with the Norwegian Patent Office.

3. Trademarks

3.1 National trademarks
The Norwegian Patent Office also handles national trademark applications and grants trademark protection in Norway. The description of goods or services in a national trademark application must be in the Norwegian language.

As in the case of patents, the Norwegian Patent Office offers a post-grant opposition system for third parties. Decisions by the Norwegian Patent Office may be appealed to the Norwegian Board of Appeal for Industrial Property Rights.

Trademarks may also be opposed in the ordinary court system, which has the authority to delete trademark registrations on the grounds that the statutory conditions for registration are not present, or on the grounds of non-use. However, the District Court of Oslo is the mandatory venue for trademark cases in the first instance, i.e. for trademark infringement cases as well as for cases concerning validity or non-use.

3.2 Madrid Protocol
Norway has ratified the Madrid Protocol, therefore a trademark holder outside of Norway may designate Norway under the Madrid Protocol.

3.3 Community trademarks
As Norway is not a member of the EU, community trademarks are not valid in Norway.

4. Design registrations

The Norwegian Patent Office also offers national design registrations. Norway has also ratified the Geneva Agreement, and Norway may therefore be designated in an application under the Geneva Agreement.

The District Court of Oslo is the mandatory venue in the first instance for design infringement cases as well as validity cases.

As Norway is not a member of the EU, Norway is not covered by a registered community design.

Appletrees in blossom by the Hardanger fjord.

5. Copyright

The Norwegian Copyright Act of 2018 protects an author's rights in literary and artistic works, such as written works, musical works and visual art works. Unlike the former Copyright Act of 1961, scientific works are no longer explicitly mentioned; however, works such as computer programs and technical documentation are still eligible for copyright protection under Norwegian law. The Norwegian Copyright Act also protects neighbouring rights such as performing artists' and producers' rights. Norway has ratified the Berne Convention for the protection of literary and artistic works and the Rome Convention for the protection of performers, producers of phonograms and broadcasting organisations, and gives national treatment to authors from other Berne Convention signatory countries and performers and producers from other Rome Convention signatory countries. Norway has also ratified the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT).

Copyright is not subject to registration in Norway. Norway is also obliged to implement EU directives in the field of copyright and therefore has implemented the Copyright Directive No 2001/29/EC. Norway will also be obliged to implement legislative changes resulting from the Digital Single Market (DSM) strategy of the EU, such as the portability regulation (Regulation (EU) 2017/1128), which is expected to enter into force in Norway in 2019.

Norwegian copyright applies extended collective licensing, i.e. copyright collecting societies may conclude licence agreements that are valid also for copyright works in which non-members own the copyright. The primary area for collective licensing concerns literary works, which is managed by Kopinor, the reproduction rights organisation of Norway. However, extended collective licensing may be applied to any area, provided that the Norwegian Ministry of Culture has approved the organisation offering such licence, which must represent a substantial portion of the right holders. Remuneration collected from the use of foreign works in Norway is distributed through collecting societies in the author's home country, provided that a reciprocal agreement between the collecting societies has been entered into.

Under Norwegian law, the author's rights in copyright works may be transferred in whole or in part by the author to a third party, however, the Norwegian Copyright Act sets out that a transfer of copyright shall not be construed as transferring a more extensive right than what is clearly expressed in the agreement. Further, the transferee does not have the right to modify the copyrighted work, or to further transfer the work, unless this is specifically agreed. The Norwegian Copyright Act of 2018 also introduced a mandatory right for the author to receive "fair remuneration" in case of transfer of copyright, and this right may not be waived by the author. It is also stated that whether a remuneration is "fair" shall be determined on the basis of the circumstances present at the time of the agreement, which means that later developments, such as unexpected commercial success, may not be taken into account.

Norwegian law sets out that the copyright in computer programs written by an employee in the fulfilment of his obligations is automatically transferred to the employer. This will often also be the case for other types of copyright works created in the course of employment.

Norwegian copyright law also provides for moral rights, which the author may not transfer or waive in advance, such as the author's right to be named and the right of respect towards the author and the work.

In relation to liability for copyright infringements, the Norwegian Copyright Act implemented the principle that already applies to infringements of industrial rights, where the liability for wilful or grossly negligent copyright infringements can be set at two times the reasonable licence fee.

Under Norwegian law, the author's rights in copyright works may be transferred in whole or in part by the author to a third party.

6. Domain names

The publicly owned company UNINETT Norid AS runs the registry for the Norwegian national domain (.no) and maintains the .no database. UNINETT Norid AS is also responsible for the Norwegian domain name policy. Registrations of .no domain names are carried out by UNINETT Norid AS accredited registrars, a list of which can be found on UNINETT Norid AS' website (http://www.norid.no).

In order to register a domain name under the .no domain, the applicant must have a 9-digit Norwegian registration number from the Norwegian Register of Business Enterprises or, if the applicant is not a legal entity, but an individual, an 11-digit personal registration number in the National Registry of Norway.

NORID maintains a domain name dispute resolution policy, similar to the Uniform Domain-Name Resolution policy modelled by ICANN. Under the policy, third parties who have legitimate rights in the domain name may complain against domain name registrations that have been carried out in bad faith. This remedy is available for a period of three years after the domain name was registered or transferred to a new registrant.

Complaints against domain name registrations may also be filed with the Norwegian ordinary courts, normally as a part of a trademark infringement case.

Sunnmørealpene.

7. TMT

TMT is an important industry in Norway, with a number of national service providers and a growing demand among customers.

IT service providers offering to deliver IT services or software to the Norwegian public will usually be met by a set of State Standard Agreements (SSA) drafted by the public body the Agency for Public Management and eGovernment (DIFI). The SSA agreements are available in official English language versions, as well as in Norwegian, and can be found on DIFI's website for public procurement (http://anskaffelser.no). In 2015, new versions of the SSAs were published, and although the SSAs are still somewhat customer-friendly, the tendency is that the agreements with each revision are becoming more and more balanced. In January 2017, DIFI issued a new standard agreement for Software as a Service (SaaS). The 2015 and 2017 SSA agreements were updated in 2018 with new clauses governing the parties' liability for personal data breach. Under the updated agreements, the parties' liability for personal data breach, including the parties' liability towards each other, is subject to the article 82 of the GDPR, and the general liability cap does not apply for such liability. Further, the parties are separately liable for any administrative fines imposed on such party under article 83 of the GDPR, and may therefore not seek reimbursement from the other party for such fines.

Standard agreements drafted by the Norwegian ICT organisation IKT-Norge are also available. These tend to be more supplier-friendly. The IKT-Norge standard agreements are not updated as frequently as the State Standard Agreements.

The Norwegian Computer Society also issues a range of standard agreements under the PS 2000 label, including agreements for software development, maintenance and operations. The PS 2000 agreements are used mainly in connection with large software development projects in which the customer participates during the development, in lieu of a detailed specification being drawn up prior to the start-up of the development project. In December 2016, the Norwegian Computer Society issued a new standard agreement for cloud services.

The Norwegian telecoms market is heavily regulated in order to counter-balance the market power of the former public telecommunication services provider Telenor.

A salmon farm in the fjords.

8. Data protection and e-marketing

Although Norway is not a member of the EU, Norway has an obligation under the EEA Agreement to implement the EU General Data Protection Regulation (Regulation (EU) 2016/679 of 27 April 2016) (GDPR) into Norwegian law. Unlike in the EU member countries, EU regulations are not legally binding in Norway until they have been implemented through national legislation.

A new Norwegian Personal Data Act implementing the GDPR into Norwegian law entered into force on 20 July 2018. The Personal Data Act contains a reference to the GDPR, giving the GDPR wording “as is” status as Norwegian legislation.

Within the limits of the GDPR, the Norwegian Personal Data Act contains a number of national derogations. In particular, much of the previous Norwegian legislation pertaining to the processing of medical data for clinical and research purposes has been maintained under the GPDR. The use of personal ID numbers and other types of personal identifiers, including fingerprints and facial recognition, is also restricted in Norway beyond the limitations of the GDPR. The previous limitations on the employer’s access to employee emails and on the use of camera surveillance have also been maintained under the new Norwegian Personal Data Act; however, the area of application of these limitations is now limited to employment relationships only. The age of consent for delivery of information society services has been set at 13 years.

Norway has also implemented the E-Commerce Directive No 2000/31/EC and recognises the safe harbour principles for Internet service providers. Norway also recognises that other EU/EEA member countries can provide information society services under the rules of their respective countries of incorporation.

Direct email marketing to individuals in Norway will, however, always be subject to Norwegian law, even if the sender of the emails is established in another EU/EEA member country or in any other country. Norwegian law is based on an opt-in principle, and protects email addresses belonging to individuals, including email addresses issued by an employer to employees for use in connection with the employment, which means that the “opt-in” requirement will also apply outside of the consumer field.

The provisions in the Consumer Rights Directive No 2011/83/EC on consumer information and right of withdrawal for distance and off-premises contracts are implemented into Norwegian law. The Norwegian Right of Withdrawal Act of 2014 is now in line with the material provisions of the Directive.

The close collaboration between industry and R&D institutions is one of the reasons why Norway is very well suited for R&D activities. In addition, the country provides an open, attractive and excellent research and innovation system, global knowledge hubs and government support schemes.

The costs of setting up R&D activities are internationally competitive, and there is a well-developed system to protect intellectual property rights. Norway participates fully in all EU research programmes and activities.

X. Public Procurement

X. Public Procurement

1. General

As a consequence of its obligations under the EEA Agreement, Norway has adopted legislation implementing the EU public and utilities procurement rules into Norwegian law. The relevant national legislation includes the overarching Norwegian Public Procurement Act as well as three separate regulations implementing the Public Procurement Directive (Directive No 2014/24/EU), the Utilities Procurement Directive (Directive No 2014/25/EU) and the Concession Contracts Directive (Directive No 2014/23/EU).

As a consequence of its obligations under the EEA Agreement, Norway has adopted legislation implementing the EU public and utilities procurement rules into Norwegian law.

In addition to the three regulations mentioned above, Norway has adopted a separate regulation applicable to defence and security procurement, implementing the EU Defence and Security Public Procurement Directive (Directive No 2009/81/EC) which applies particularly to procurement of defence materiel and classified materiel, works and services for specific defence purposes, and classified works and services.

2. Applicability of the public procurement rules

The EU directives set forth threshold amounts below which the procurement rules do not apply. Similar threshold amounts, albeit stated in NOK, are adopted in the Norwegian regulations. Below these thresholds, the contracting authorities enjoy substantial latitude with respect to the procurement process. They are, however, bound to observe the basic principles of competition, equal treatment and non-discrimination, transparency and proportionality.

Applicable to the classic sector only, Norway has also adopted national public procurement rules beyond its obligations under the EEA Agreement. These rules apply to the purchase of goods and services below the threshold values as well as certain specified services regardless of the contract value. Although introducing significant leeway compared to EU/ EEA rules, the national rules are shaped according to and form an integral part of the Norwegian Public Procurement Act and the Norwegian Public Procurement Regulation.

In addition to the threshold values referred to above, the Norwegian Public Procurement Act sets out a distinct threshold amount of NOK 100,000 below which none of the public procurement rules apply.

3. Public notice

In accordance with the rules of the EU directives, contracting authorities shall submit a public notice of any procurement of goods and services above the EU/ EEA threshold values. In practice, the public notice is submitted through the Norwegian public procurement database (Doffin) for translation and further dispatch to the EU database, Tender European Daily (TED).

With regard to purchases governed by the national rules, i.e. below the EU/ EEA threshold values and above the national threshold values as well as certain specified services, the contracting authorities are obliged to submit a public notice. However, in these cases, the procurement will be made public only in Doffin.

Below the national threshold values, notification through the public procurement database is voluntary. The contracting authorities are free to use other appropriate means to facilitate the necessary competition between potential tenderers.

4. Procedures

Above the EU/ EEA threshold values, the contracting authorities shall, as a main rule, use an open or restricted tender competition. However, the negotiated procedure and the competitive dialogue may be used, provided that certain conditions are met. In general, the latter procedures are available to the contracting authorities if required by the subject matter or the delivery terms of the contract.

Under the national public procurement rules, the contracting authorities may always reserve the right to initiate a dialogue with the tenderers at any time from receipt of the tenders to the contract award. The scope of such a dialogue may vary from minor clarifications to full-scale negotiations. The contracting authority shall indicate in the public notice or the tender documents whether or not he intends to have a dialogue with the tenderers and, if so, the scope and form of the dialogue.

Stegastein viewpoint in Aurland offers panoramic views of the fjord.

5. Substantive public procurement rules

The EU procurement directives are implemented into Norwegian law by means of transformation, meaning that the rules of the directives are construed by the Norwegian authorities and then adopted in separate legal acts after adaptation to the Norwegian legislative tradition. Due to this legislative approach, the Norwegian rules may appear substantively different from the underlying EU law. Nevertheless, from a paramount perspective, the substantive rules of the EU directive are reflected in the Norwegian public procurement rules, and the Norwegian rules will be construed in light of rules of the directives as well as case law from the EU Court of Justice.

Notwithstanding the above, the Norwegian public procurement rules set out certain provisions that do not have counterparts in the EU directives. One example pertains to environmental considerations associated with the procurement process. The EU directives on public procurement, utilities procurement and concession contracts all acknowledge the importance of including requirements in the areas of environmental, social and labour law as an integral part of the procurement, for example by reflecting such considerations in the award criteria. Under Norwegian law, this has been taken a step further. Pursuant to the Public Procurement Regulation, the Utilities Procurement Regulation as well as the Concession Contract Regulation, as a main rule an award criterion associated with the fulfilment of environmental requirements shall be weighted to a minimum of 30%.

Furthermore, compared to the EU directives, the Norwegian procurement rules extend the exclusion grounds associated with the tenderers being involved in certain criminal activities. Whereas the EU directives require contracting authorities to exclude from the competition a tenderer that has been the subject of conviction by final judgment for one of the reasons specified, including participation in a criminal organisation, corruption and money-laundering, under the Norwegian rules, it is sufficient that the tenderer in question has accepted a fine imposed by the prosecuting authority.

The Flåm Railway has been described as one of the worlds most beautiful train journeys. It is 20 km long, has 20 tunnels and took 20 years to build.

6. Access to information and confidentiality

6.1 Public access to documents and information
Under the Norwegian Freedom of Information Act, as a general rule, the public may require access to any case document prepared or received by or submitted from a public body. This rule applies also to procurement cases, although restricted to public bodies bound directly by the provisions of the Freedom of Information Act as well as any procurement case above specific threshold values, currently being NOK 9,250,000 for goods and services and NOK 92,500,000 million for works.

Normally, a request for access to documents shall be handled without undue delay, and to the extent access is granted, the documents or information shall be communicated immediately thereafter. However, due to the particular characteristics of a procurement case, particularly the need for confidentiality until the competition is concluded, in these cases public access to the tenders and the procurement log may be deferred until the contracting authority has awarded the contract. Consequently, a tenderer may request access to a competitor's tender before the contract has been entered into.

6.2 Confidentiality obligations
In principle, all the documents in a procurement case are subject to public access. However, certain information included in the tenders, particularly information generally referred to as trade secrets, is shared by the tenderers under the expectation that it is kept in confidence and protected from access. To facilitate the open communication between the contracting authority and each of the tenderers, the contracting authority is bound by statutory confidentiality undertakings applicable to trade secrets, provided that a third party's access to the information may affect the competitive position of the tenderer.

It is generally acknowledged that unit prices constitute trade secrets, whereas total amounts and subtotals will generally be subject to public access.

Under certain circumstances, the confidentiality obligations of the contracting authority may extend beyond the limits indicated above. For instance, if there are circumstances indicating that a contract award in a negotiated procedure may be set aside, causing the contracting authority to re-open the negotiations, the contracting authority is bound to keep all price information, including the total amount and any subtotals, confidential.

7. Enforcement

7.1 Complaints to the contracting authority
In the event the award of the contract represents a breach of the public procurement rules, the contracting authority may set aside the award decision until the contract is signed. Based on this rule, a tenderer may file a complaint directly to the contracting authority, arguing for the decision to be set aside.

After signing, the contract between the contracting authority and the winner of the competition is binding, and the award decision may no longer be set aside.

7.2 Norwegian Complaints Board for Public Procurement
Norway has established a dual-track enforcement of the public procurement rules. Complaints may be filed before the Norwegian Complaints Board for Public Procurement (KOFA) and the ordinary courts of law.

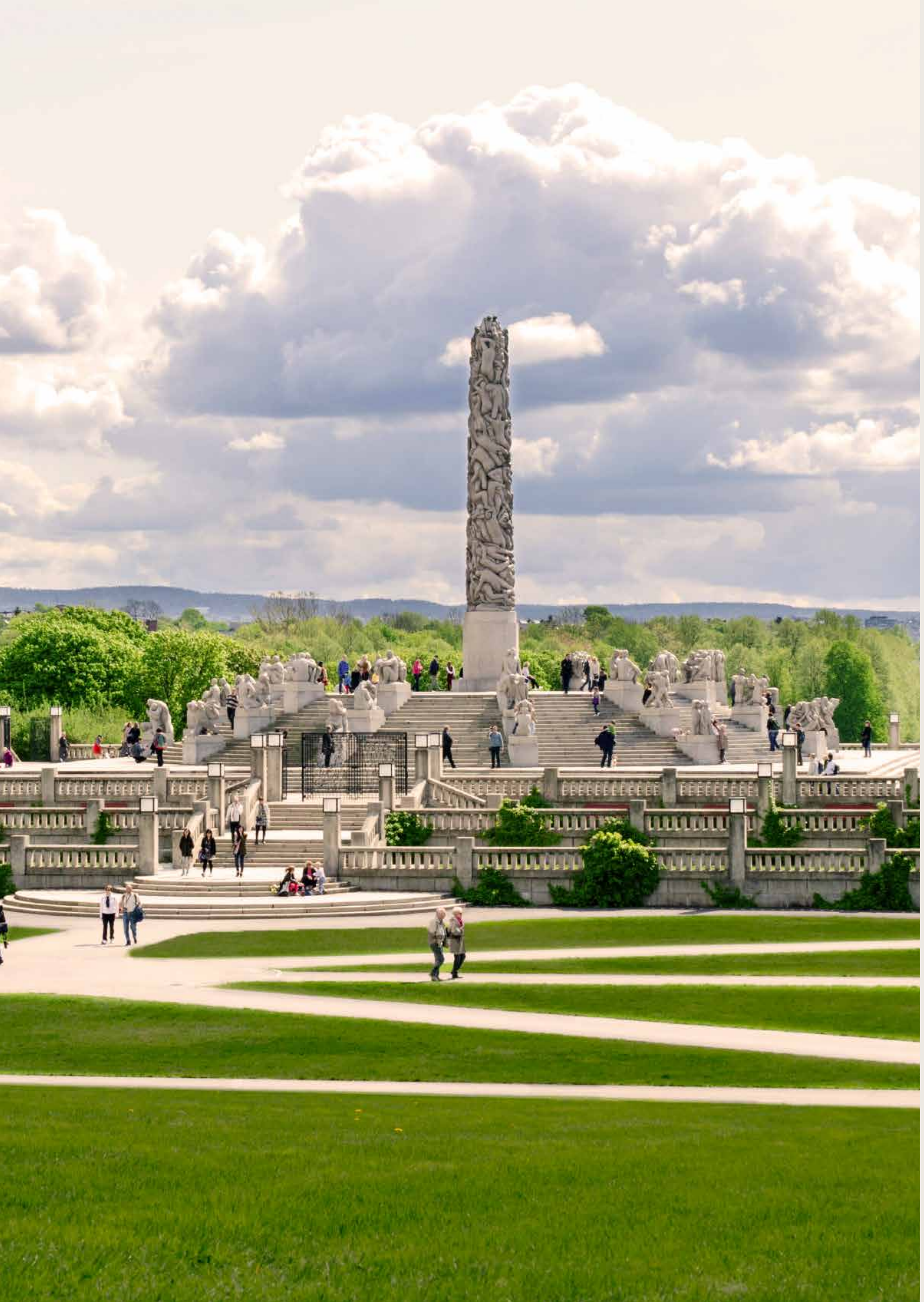
KOFA, consisting of legal professionals, review complaints regarding violations of the Public Procurement Act and associated regulations. Its decisions are only advisory, save in the event it finds that the contracting authority negligently has failed to submit a required public notice (an illegal direct award), in which case it imposes a fine of up to 15% of the contract value.

The procedure before the complaints board is adversary. The parties exchange written pleadings and present allegations and evidence, upon which the board considers the case without oral proceedings.

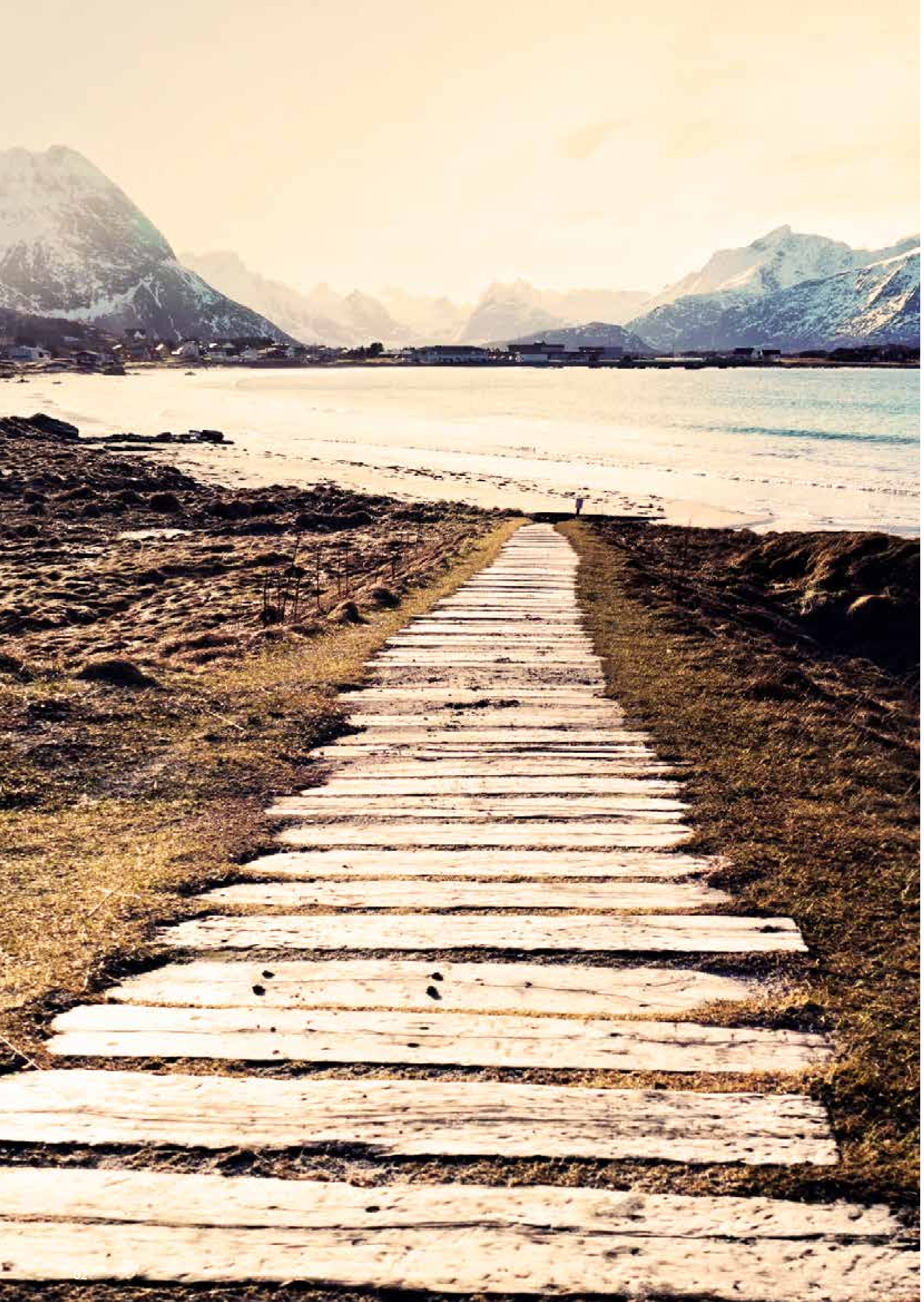
7.3 Legal actions
Violations of the public procurement rules may also be enforced by bringing a case before the ordinary courts of law.

Until the contract has been signed, a tenderer may request the court to set aside decisions infringing the public procurement rules. In order to safeguard such a request, the tenderer may file for a preliminary injunction temporarily prohibiting the contracting authority from signing the contract pending the outcome of the main dispute. When the tenderer's request for a preliminary injunction is served to the contracting authority, the right to enter into the contract is immediately suspended until the latest of the date of the court's decision regarding the preliminary injunction and the expiry of the stand-still period.

After signing of the contract, the tenderer is referred to claim damages for financial loss caused by the breach of the public procurement rules. A claim for damages may cover the positive contract interest, i.e. net loss of profit, if the tenderer can successfully demonstrate with a qualified preponderance of evidence that it would have been awarded the contract if the contracting authority had not violated the procurement rules. Alternatively, the tenderer may claim damages for its costs associated with participating in the competition. To the latter category of claims the ordinary standard of proof applies.



The Vigeland Sculpture Park in Oslo is home to 650 sculptures created by Gustav Vigeland. The sculptures are formed out of wrought iron, bronze, and granite, and arranged in five themed groups. The most famous of these are 16-meter monolith, which depicts the cycle of human life.



XI. Dispute Resolution

XI. Dispute Resolution

1. General

Disputes between individuals and business entities as well as other private legal entities, or disputes between individuals or private legal entities on the one hand and public authorities on the other hand, may be brought before the ordinary courts of law for mediation or judgement. In addition, the parties to a dispute may request the ordinary courts to issue preliminary injunctive orders, a form of interim relief.

Parties to a dispute may initiate legal proceedings and represent themselves before the ordinary courts of law without being required to be represented or otherwise assisted by a lawyer. However, if the court is of the opinion that a party is not able to represent itself in a proper way, the court may require such a party to be represented by a lawyer. In the vast majority of cases, parties to litigation choose to have legal representation. Any Norwegian lawyer may represent any party before any Norwegian court. The only exception is the Norwegian Supreme Court where representation is only allowed by lawyers admitted to the Norwegian Supreme Court.

Court fees in the first instance are moderate, starting at NOK 5,860 for one day in court, and NOK 3.450 for each additional day up to and including the 5th day, and NOK 4,688 for each day in excess of five days. As regards appeal cases, court fees start at NOK 28,128, with the same increments as in the first instance for hearing days in excess of one. Thus, court fees do not depend on the value of the dispute. Whilst court fees are laid down by law, lawyers' fees must be agreed between the lawyer and his client. Lawyers' fees for representation in court are subject to Norwegian VAT and VAT has to be invoiced and paid on all legal assistance that relates to such representation. The general rule is that the party that wins the case is awarded costs. The court awards "necessary" costs and most courts will base their decision on the lawyers' fee notes that are submitted at the end of the trial. It is not unusual for the court to award less than that what is requested.

2. Court system

2.1 General

In Norway, the legal hierarchy consists of three instances: The district courts (first instance), the courts of appeal (second instance) and the Norwegian Supreme Court (third instance). Prior to bringing disputes to the district courts, any dispute will usually have to be heard before a so-called conciliation board for conciliation proceedings.

The venue for any dispute brought before either the conciliation board or the district court is the venue upon which the parties to the dispute have agreed or, if the parties have not agreed upon a specific legal venue, the venue as otherwise set forth in the Norwegian Dispute Act of 2005.

2.2 Conciliation boards

The conciliation boards are judicial bodies. They are comprised of three lay persons, often senior citizens, such as retired local politicians. Most of the municipalities have their own conciliation board, whilst some conciliation boards cover more than one municipality.

The function and purpose of the conciliation boards is to try to assist the parties in reaching an amicable settlement. If the parties do not succeed in agreeing on a settlement, the conciliation board may render a judgement if the value of the dispute is lower than NOK 125,000 and if either of the parties requests a judgment, or if the value of the dispute is equal to or higher than NOK 125,000 and both parties request a judgment. In any other case, the conciliation board may not render a judgement. It may however continue the conciliation proceedings. In the event that conciliation does not succeed, the conciliation board shall discontinue its efforts to get the parties to reach a settlement and refer the case to the district court. Appeals against judgements rendered by the conciliation board may also be taken to the district court.

The conciliation boards are judicial bodies. They are comprised of three lay persons, often senior citizens, such as retired local politicians.

For certain disputes, such as disputes in connection with real property lease agreements, the dispute must be brought before special conciliation boards instead of the general conciliation boards as described above. Special conciliation boards are not located in all municipalities. If there is no special conciliation board in a certain municipality, the disputes must be brought to the local general conciliation board.

If the value of the dispute is equal to or higher than NOK 125,000 and if both parties are represented by lawyers, conciliation proceedings before the – general and special – conciliation boards are not mandatory, and the dispute may be brought directly before the district court. Hence a defendant can delay the process by abstaining from being officially (externally) represented by a lawyer in order to force the plaintiff to initiate conciliation proceedings.

2.3 District courts

There are approx. 60 district courts in Norway, and the number has been reduced following consolidation of several smaller courts. The most important district court in terms of the number of disputes decided is the District Court of Oslo.

Proceedings before the district court are instituted by submitting a writ of summons to the court. Writs of summons can be submitted orally, although not if the plaintiff has legal representation, but are almost always submitted in writing. The writ of summons must include certain minimum information, such as the name of the court, the names and addresses of both parties, the claim upon which the action is based and the factual and legal grounds for the claim. In general, the writ of summons should provide a sound basis for both parties and the court to prepare and evaluate the case.

The district court will serve the writ on the defendant, normally by post, and will set a deadline for the defendant to submit a defence plea. The deadline is normally three weeks from service of the writ.

On the basis of the writ of summons and the defence plea, the district court will summon the parties to a case management conference in which the date of the main hearing is fixed, and certain other procedural matters are dealt with. The main hearing should be no later than six months from the date when the court received the writ of summons. The court will base its decision on the case on the main hearing. In the main hearing, the parties present all underlying facts and circumstances and provide evidence of the extent to which such facts or circumstances are in dispute. It is not sufficient to refer to written documents such as the writ of summons and the defence plea. In addition, each party presents its legal analysis supporting its claims, counterclaims and other motions. As a result, the hearings often take several days.

Unless the parties agree on a settlement during the hearings, the district court decides the dispute by means of a judgement. Judgements are returned within two to four weeks after the main hearing. However, there are exceptions and it sometimes takes longer.

The Atlantic Road is part of Norwegian national road 64 (Rv 64) located along the midwestern part of the Norwegian coastline. The road's roller coaster-feel, curvy bridges and phenomenal views have made it a favourite of road trippers and motorcyclists.

The construction of the road started in August 1983 and took six years to finish. Its eight breathtaking (and sometimes terrifying) bridges have become one of the country's most popular tourist attractions.

2.4 Courts of appeal
There are six courts of appeal in Norway. In general, most judgements rendered by district courts can be appealed to a court of appeal within one month of the judgement being served. However, if the amount in dispute in the case is less than NOK 125,000, leave must be granted for the appeal to be heard by the court of appeal. A judgement may be appealed on the grounds of a wrongful decision based on underlying facts and circumstances or a wrongful application of the law, and on the grounds of wrongful application of mandatory procedures in the district court.

Unless the parties agree to a settlement at the court of appeal, the court of appeal decides on the dispute by rendering a judgement.

2.5 Supreme Court
A judgment rendered by a court of appeal may be appealed to the Norwegian Supreme Court in Oslo. Under certain conditions, judgements rendered by a district court may also be directly appealed, in part or as a whole, to the Norwegian Supreme Court.

The appeals committee of the Supreme Court decides if the appeal is to be heard by the Supreme Court. Only about 13% of all civil appeals are heard. In order to be heard, the appeal should involve issues of relevance for other cases or issues of such general importance that they require a judgement from the Norwegian Supreme Court.

3. Other courts of law

As a rule, the ordinary courts of law have jurisdiction over almost all kinds of dispute. Hence there are no special courts for disputes relating to employment law, tax law, administrative law or criminal law, for example. All disputes including disputes relating to the said areas of law are brought before the ordinary courts of law.

As to the ordinary courts of law in Oslo, there is the District Court of Oslo and, in addition, the Court of Execution and Enforcement of Oslo which deals with interim injunction, insolvency and enforcement matters and provides notarial services.

One of the few further exceptions is the Norwegian Labour Court in Oslo. The Norwegian Labour Court decides on disputes relating to collective agreements. Therefore, as a rule, only the parties to collective agreements may bring such disputes to the Norwegian Labour Court. There is no possibility of appeal against the judgements rendered by the Norwegian Labour Court.

Another exception is the Norwegian Social Security Court in Oslo which decides on social security and pension disputes arising under the Norwegian National Insurance Act of 1997. Judgements rendered by the Norwegian Social Security Court may be appealed to the court of appeal at the venue.

A further exception is the Board of Appeal for Competition Cases in Bergen which will hear appeals against decisions of the Norwegian Competition Authority. Further appeals will be made to the Court of Appeal in Bergen.

In addition, the District Court of Oslo has exclusive jurisdiction over copyrights, patent, trademark and design infringement as well as validity cases.

Finally, there are 34 land consolidation courts and five land consolidation courts of appeal. They decide on land consolidation measures taken under the Norwegian Land Consolidation Act of 1979. However, certain decisions by the land consolidations courts must be appealed to the general courts of appeal.

4. Enforcement of judgements rendered by foreign courts

Foreign courts do not have jurisdiction in Norway and as a rule, judgements rendered by foreign courts do not have any legal effect in Norway. Consequently, such judgements cannot be enforced in Norway.

The major exception to this rule is the Lugano Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters dated 30 October 2007, which became effective in Norway on 1 January 2010. On the basis of the Lugano Convention, judgements rendered by courts from states which have signed the Lugano Convention (EU/EEA member states) may be enforced in Norway, subject to having first been acknowledged by the Norwegian district court at the venue. Such recognition proceedings may take up to half a year. Vice versa, judgments rendered by Norwegian courts may be enforced in the other EU/EEA member states, subject to the local acknowledgement proceedings.

Another exception is that under Norwegian law, a judgement rendered by a foreign court is enforceable in Norway if the litigants agreed that that court should have jurisdiction over the dispute. Such an agreement must be made in writing. It does not have to be made in each specific case, after a dispute has arisen. A jurisdiction clause in a contract providing that any and all disputes that may arise from the contract will be decided by the courts of a particular state, will also be sufficient. This, however, does not mean that judgements rendered by Norwegian courts, if so agreed in the contract, may be enforced in foreign jurisdictions as the enforcement of such Norwegian judgements is subject to applicable foreign enforcement law.

5. Debt collection

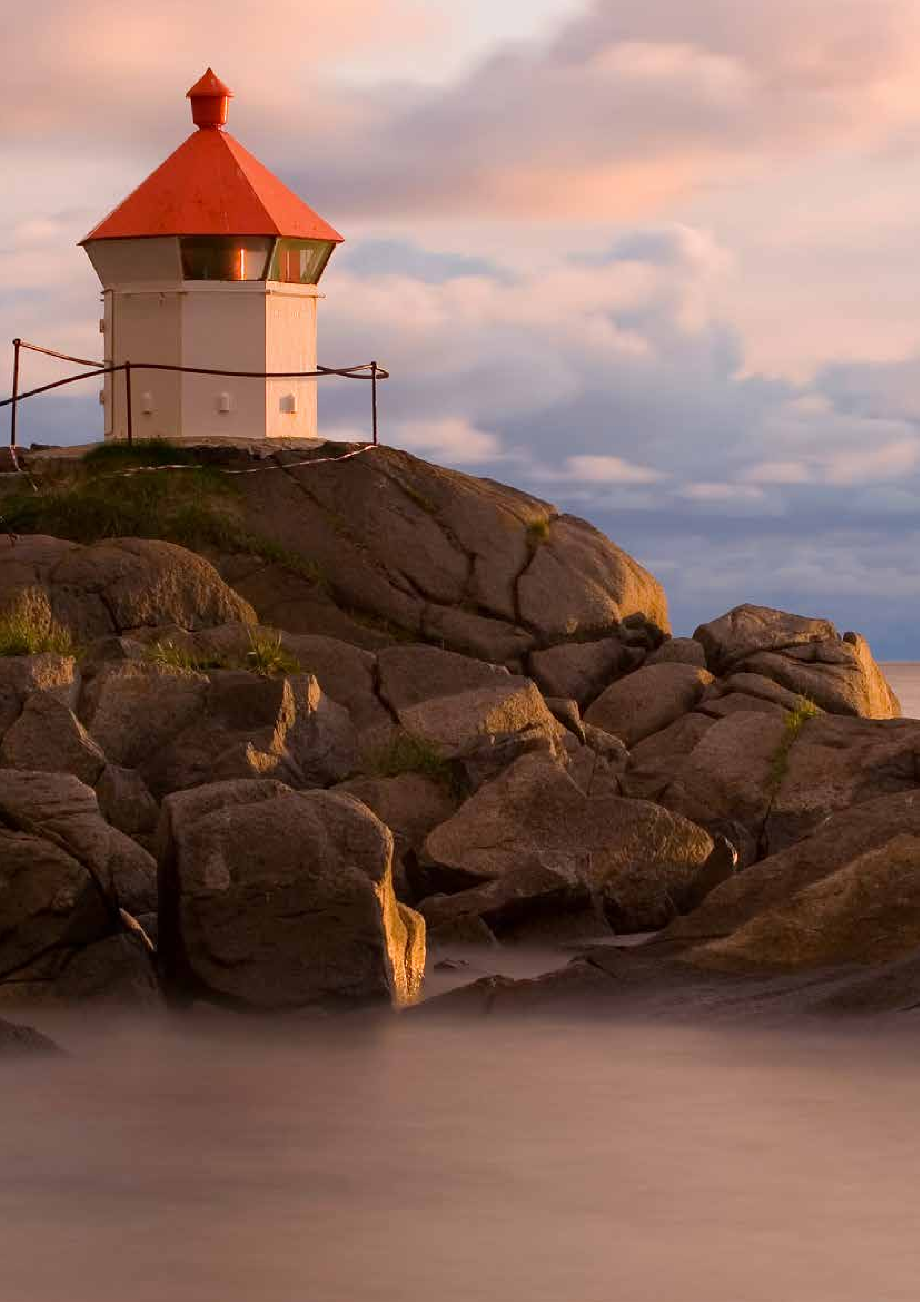
In Norway, claims for payment of money may be enforced on the basis of payment requests (for example invoices) issued by the creditor to the debtor if the payment request complies with certain formalities and to the extent to which the underlying claim is undisputed between the parties. Therefore, from a debtor's point of view, it is important to dispute any payment requests within the term of payment. In the event of a dispute, the creditor is not entitled to initiate enforcement directly, but has to bring the dispute to the conciliation board or the district court for conciliation, mediation or judgement.

6. Arbitration

As an alternative form of dispute resolution, disputes may also be resolved by arbitration. According to the Norwegian Arbitration Act of 2004, arbitration proceedings are subject to the parties having mutually agreed to arbitrate, either in writing or orally.

In the event of disputes to which a consumer is party, the arbitration agreement must have been entered into after the relevant dispute arose and must be confirmed by a separate written agreement signed by both parties. Furthermore, even if the consumer actually engages in arbitration proceedings, a consumer who has not been made aware of the limited availability of appeal or review by a judicial body and of the fact that the arbitration agreement is not binding on the consumer unless the conditions mentioned above are fulfilled, can declare himself not bound by the arbitration clause or agreement.

Foreign arbitration awards are, as a rule, enforceable in Norway. Norway has ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958. In this respect, it is worth mentioning that an arbitral award rendered in a state party to the New York Convention will be recognized and be enforceable in other convention states. As this is not the case for ordinary court judgements except for judgements rendered by ordinary courts from EU/EEA member states or to the extent allowed under applicable foreign enforcement law, parties to an international contract should consider arbitration as a possible better alternative which will allow enforcement almost across the globe, as the New York Convention has 156 signatory states. Thus, arbitral awards rendered in Norway will be recognized and be enforceable in the other 155 convention states, whilst judgments rendered by Norwegian ordinary courts may be enforceable only in the EU/EEA member states or to the extent allowed under applicable foreign enforcement law.



Doing Business in Norway

This guide “Doing Business in Norway” aims to provide an introduction to various aspects of Norwegian law. We hope that this guide is of assistance to foreign enterprises and anyone else who is interested in Norwegian law.

Whilst we have taken reasonable care to ensure that the information in this guide is accurate and up to date at the date stated in the Introduction, we assume no responsibility for information in this guide that may prove to be insufficient, incorrect or outdated. This guide is only an information tool and is not intended to replace legal advice. Recipients and readers of this guide should not rely on this information exclusively and should seek legal advice from us or from other lawyers qualified to advise on Norwegian law.

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- Tax

According to the annual ranking from the UNDP, the Human Development Index, Norway is the best country to live in. Norway is a well-developed welfare state with a high degree of social security. Given the established work- private life balance, you will also have the time and opportunity to take advantage of the Norwegian countryside.

Doing Business in Norway
2019 Edition
ISBN 978-82-93788-00-3

Publisher: Advokatfirmaet Grette AS
Editor: Dr. Roland Mörsdorf
Design: Snøhetta
Print: Konsis AS

Advokatfirmaet Grette AS
Postboks 1397 Vika
0114 Oslo, Norway

NO 820 203 542 MVA

Filipstad Brygge 2
+47 22 34 00 00
firmapost@grette.no

www.grette.no