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«**Environment and land transportation law**»

Norwegian Report

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A. TRANSPORTATION LAW

II. National legislation

1. General Questions on National Transport Policies and Laws.

- a) *To what extent, environmental issues are taken into account in national transport policy? Does national transport policy set specific goals in order to reduce especially negative impacts from road traffic, e.g. emission goals, road traffic relocation on rail etc.?*

During the last 12-15 years environmental problems and perspectives have increasingly influenced Norway's transport policy. In the late 1990s, in accordance with the integration principle as applied in Norway, the government developed "**Environmental Action Plans**" for all important sectors. In 1998 such a plan was made and adopted for the transport sector. This established links in particular between transport policy and national climate policy; the climate policy included measures also in the transport sector. As consequence, environmental issues are to a considerable degree taken into account in national transport policy, not least in the 10 year National Transport Plans.

As will be shown, some environmental indicators have shown a positive development over the last years. However, the main trend with regard to transport pattern in Norway has been *a steady increase in road transport*, both by private cars and trucks, with a corresponding increase inter alia in GHG emissions. According to all realistic previsions this trend will continue. The official (government) prevision based on several different scenarios of technological developments is a further increase in traffic with an increase in GHG emission from all transport sources of between 9,5% and 16,5 % from 2006 and 2020.¹

¹ Stortingsmelding (White paper/report to the Parliament) nr. 16 (2008-2009) Nasjonal transportplan 2010-2019), p. 293.

The main national transport policy programme today is *the National Transport Plan* (Nasjonal transportplan) for the period 2010-2019.² It contains a detailed list of priority measures and projects to be carried out in the period, with economic frames. This was adopted by the Parliament in 2009 and is followed up through the annual state budgets. It covers all aspects of transport policy, covering transport by road, rail, sea and air and the needs and planned projects for improvement of existing infrastructure and development of new infrastructure..

The environmental dimension is expressed as follows as one of four main objectives³ of the plan:

“The transport policy shall contribute to limiting emissions of greenhouse gases, reducing environmental effects of transport and fulfilling Norway’s national objectives and international commitments in the field of the environment.”

There are also several more precise objectives and targets:

- *For emission of GHG* the aim is a reduction of between 2,5 and 4 million tons of CO₂ equivalents for the period 2010-2019 compared to a “business as usual” scenario (corresponding to a reduction of between 25% and 40 %). This corresponds roughly to zero growth in actual emissions.
- In particular, there is a *target for average CO₂ emission from new cars* (trucks excluded) of 85 g CO₂/km in 2020. (This has already been reduced from 177 g/km in 2006 to 127 g/km in August 2012).
- *Emission of NO_x* shall also be reduced, but no precise target. (From 1990 to 2011 the emission of NO_x from road transport has been reduced by 44 %.)
- Transport policy “should contribute to reaching general national objectives in *reducing air pollution and noise*”. For *noise* the national objective is a “10 % reduction of the problem” from 1999 to 2020 (but little has been achieved until now).
- “Avoid encroachments and damage on important natural areas and protect important ecological functions.” “In principle, projects with significant negative effects on biodiversity should not be carried out”.⁴ The extent to which this is fulfilled is subject to annual reporting to the Parliament in the state budget document.

² Op.cit.

³ The other three are 1) improved transport infrastructure to reduce travel time for the benefit of industry and regions, 2) reduction of accidents, and 3) improved facilities for disabled people (“universality”).

⁴ St. meld. nr. 16 (2008-2009) p. 306.

- “Limit damage from infrastructure projects on important cultural heritage, cultural landscapes and agricultural land.” This is also subject to annual reporting to the Parliament.

There are *four main measures* in the plan to meet these objectives:

1. *Strengthen and improve the railway system*, in particular in the central areas (the Oslo region), in order to reduce car transport.
2. *Road toll*.
3. *Taxes and charges on vehicles varying with emission levels* (CO₂ and NO_x).
4. *Land use planning* that aims to avoid that new roads and highways threatens, disturbs or destroy agricultural land, protected nature areas and cultural heritage.⁵

In addition comes a general policy of land use planning that aims to concentrate new developments along public transport lines in order to reduce the need for private car transport. There are thorough state planning guidelines to this effect.

- b) There are no constitutional law provisions which are relevant in this field.
- c) The most important legislative acts are the 1963 Road Act⁶ with regulations, the 1965 Road Traffic Act⁷ with regulations, the 1993 Railway Act,⁸ and the Planning and Building Act.⁹

What may be of interest here is the fact that new road and railway projects, and ports, are planned in detail, discussed and approved pursuant to the general spatial and land use planning system in the 2008 Planning and Building Act. This means quite an open procedure with broad participation and close cooperation between the state and county road authorities and the municipalities. In Norway, the legally binding land use plans – municipal master plans (“kommuneplan”) and detailed development plans (“reguleringsplan”) are formally adopted by the municipalities – but only provided that there is agreement with state road authorities, and with other state authorities such as state authorities for agriculture and nature protection.

This also means a fairly comprehensive planning approach and process where environmental considerations are to be taken into account from an early stage. The SEA/EIA procedures are included in and integrated into the planning process pursuant to the Planning and Building Act. Usually environmental impact assessments are carried out in connection with the elaboration of the master plan.

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⁶ Act of 21 June 1963 no. 23.

⁷ Act of 18 June 1965 no. 4.

⁸ Act of 11 June 1993 no. 100.

⁹ Act of 27 June 2008 no. 71.

2. Instruments to manage and reduce road traffic.

a) Tolls and user charges.

aa) and bb): In Norway most new or improved state highways are toll roads. This is decided in each case by the Parliament. The main purpose is to get supplementary financing of the new road/highway in question in addition to the ordinary state budget. Usually, around half of the costs are covered by the toll. Normally, the toll will last until the project has been fully paid. Reduced road traffic may be a limited side effect.

The Road Act permits toll revenues to be used also for development and improvement of railways. This has not yet been implemented but is being considered by the present government.

In addition, there are toll roads around the city center of Oslo and a few other major cities with the double objective of reducing traffic and raising funds for new and improved transport infrastructure. This may also include infrastructure for public transport (metro, etc.) in the urban area and even to cover running costs of the public transport systems.

The city of Trondheim, as the first in Norway, has introduced a special “rush hour”-charge, the main purpose being to avoid high concentration of air pollution during rush hours. This has been effective in reducing private car transport.

Tolls apply to all types of vehicles, but the level is differentiated between private cars and trucks. For heavy trucks the directive 1999/62/EC applies and has been implemented.¹⁰

Furthermore, pursuant to the Road Act the Parliament may introduce *a tax on trade in vehicle fuel* to be used to finance the construction of public roads. However, this has not yet been applied.

cc): There is no system for charging external costs in the rail sector.

b. Emission trading

aa) There is no emission trading system on vehicles.

bb) An emission trading system in the car transport sector will require a completely new legislation.

c. Transit Exchange system

aa) There is no such system in Norway.

¹⁰ Regulation of 24 November 1995 with later amendments.

bb) Such a system would require new legislation.

d. Other measures to reduce emissions of CO₂ and NO_x

In general, the transport sector has the highest level of CO₂ tax in Norway.

aa) CO₂ tax on fuel.

A part of the *tax on fuel* (petrol and diesel) is defined as “the CO₂ part”.

bb) *Varying taxes for new vehicles* partly based on the level of emissions of CO₂ and NO_x.

cc) Requirement of 3,5 % *biofuel* in the overall fuel supply – which may increase to 5 %.

dd) *Ambient air quality norms* in accordance with the relevant EU directives.

It is presently being discussed whether the use of diesel cars should be limited in urban areas when the NO_x concentration in the air reaches a certain level.

3. Instruments to promote rail traffic and combined traffic.

a. There is no specific legislation or regulation to this effect in Norway.

However, one particular measure – a “carrot” - may be mentioned here. In 2009 the government introduced a positive incentive for cities to take active measures to increase public transport and reduce the use of private cars. On the basis of documented results in one or both of these areas, the city may apply for financial support as a “reward”. The total amount in the annual state budget for this purpose for 2013 is NOK 670 million, corresponding roughly to USD 110 million.

b. Infrastructure costs for rail traffic is in total financed over the annual state budget (except in Oslo urban area where income from toll roads may contribute).

4. Case Law: Nothing to report.

B LAND-USE PLANNING AND ENVIRONMENTAL IMPACT ASSESSMENT

1. The levels for planning of transportation infrastructure are the state level for highways and other state roads, where the 2010-2019 National Transport Plan plays a major role when it comes to priorities and money, regional (county) level for county roads. and the municipal level for municipal roads.

2. As the National transport Plan covers both road, rail, sea (ports) and air transport, it definitely provides a system for comprehensive planning in the transport sector, with the possibility to weigh different transportation modes against each other. In the present plan, the strengthening of both the railway and the national port system are described explicitly as measures to reduce road traffic.

However, it is a fact that a relatively high priority is still given to the development and improvement of the major road system and highways. The issue is politically controversial; at least three political parties want to give the railway system a higher priority for environmental reasons. This is a central topic in the political discussion of Norway's climate policy.

3. There is not anything like a formal test of the need for more roads. In addition to the general wish to shorten travel distances and facilitate access, *road safety* is at present used as a strong argument for investment in road developments and improvements. On the other hand, from the environmental side, there is of course the argument that better roads will stimulate and increase individual car transportation.
4. As mentioned, Norway's system of SEA and EIA is integrated into the land use planning system of the Planning and Building Act. It is meant to implement the EU directives (but it does not do it fully in all respects). There is very little research in Norway on how the SEA/EIA system is applied and actually works, including on the issue of assessment of alternatives.

Anyway, it is normal that important new road projects are presented with several alternative trajectories, with corresponding EIAs, in connection with the main the elaboration of the main planning document which is the municipal master plan.

Until now, the alternatives have not included other types of infrastructures such as railway, although this has been called for. Neither is a full assessment of the "zero-option" usually carried out.

C. PRODUCT LABELING.

There is unfortunately little to report from Norway on this point.

Oslo, November 9, 2012.