

GRETTE

**DOING
BUSINESS
IN NORWAY**

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DOING BUSINESS IN NORWAY

DOING BUSINESS IN NORWAY

I. INTRODUCTION

The Norwegian market offers great business opportunities for foreign enterprises, both within the oil and gas sector, which is one of Norway's major areas of business, and also within various other areas of business and industry.

As a result of Norway's outstanding financial and economic position, which is - among others - based on the income from its oil and gas resources, public investments will continue at a significantly higher level than in other European countries. In the years ahead, the Norwegian government will be looking at comprehensive investments, for example in the Norwegian infrastructure, and thus there will be many interesting business opportunities within construction. In addition, Norwegian private households are relatively wealthy compared with other European countries, and the unemployment rate is very low. Hence there will also be business opportunities in the private sector involving consumer goods and other products.

Norway is not a member of the European Union (EU), but it is a member of the European Economic Area (EEA). As a consequence, a large number of Norwegian laws are harmonised with European 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 agents' 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, June 2010

II. CIVIL LAW

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.lovdato.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 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 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. It is worth noting, however, that Norway has filed declarations under Article 92 and Article 94.

The Article 92 declaration means that Part II of the CISG regarding the formation of a contract does not apply. 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. With the exception of Part II, the CISG was incorporated into Norwegian law in the Norwegian Sale of Goods Act 1988. Thus, the Norwegian Sale of Goods Act applies to international sales of goods except for certain provisions which do not apply to sales between parties resident in the Scandinavian countries.

The UNIDROIT principles have been the subject of considerable attention in Norwegian academic and commercial circles. The UNIDROIT principles are seen as providing a possible alternative to the situation created by the Norwegian refusal to accept Part II of the CISG. However, the UNIDROIT principles have not played any part in the premises of any judgements by the Norwegian Supreme Court.

3. COMMERCIAL AGENCY CONTRACTS

The Norwegian Agency Act 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.

In line with other European countries, the Norwegian laws regarding commercial agents are based on EU directives implemented by the EEA Agree-

ment. The Norwegian Agency Act is therefore similar to rules in other EU/EEA countries.

4. CONSTRUCTION CONTRACTS

4.1 Norwegian Standard contracts

Norwegian standard (NS) contracts provide standard sets of terms and rules. NS contracts are initiated and prepared by a committee consisting of experts appointed by interest groups, and then approved and published by Standard 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, Standard Norway has mainly developed standards for the real estate, construction and electronics industries.

NS regulates how testing, certification and accreditation are to be carried out. Nonetheless, 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.

All NS carry a number beginning with “NS” such as NS 8405 which is the basic construction contract. However, certain standard documents containing technical specifications carry other identification numbers including numbers which are used Europe-wide.

4.2 Norwegian Fabrication contracts

Norwegian Fabrication (NF) contracts contain standard terms and rules 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 2007 (NF 07) and is an agreed document negotiated by the Hydro and Statoil companies (merged to form StatoilHydro in 2007, and now renamed Statoil) on one side and by the Technology Companies’ Union (TBL, known as Norwegian Industry since 2006) on the other side. NF are intended to provide continuous improvement in safety, health and environment and increased added value in the Norwegian petroleum industry.

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 Cancellation Act 2000, the Norwegian Marketing Practice Act 2009, the Norwegian Trade and Craft Service for Consumers Act 1989, the Norwegian Housing Construction Act 1997, the Norwegian Alienation Act 1992 and the Norwegian Consumer Purchase Act 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 countries. One notable difference, however, is the 5-year warranty period under the Norwegian Consumer Purchase Act which applies to all goods made for a lifetime significantly longer than 2 years. The lifetime of products must be assessed individually. However, most consumer electronics, including mobile phones, are covered by the 5-year warranty period. For products with a shorter expected lifetime, a warranty period of 2 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 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. ACQUISITION RESTRICTIONS

6.1 General

There are no general restrictions on foreigners acquiring assets (asset deals) or shares and inter-

ests in Norwegian companies and partnerships (share deals). However, some restrictions may apply due to the Norwegian Competition Act 2004, which regulates the control of concentrations between enterprises through the Norwegian Competition Authority.

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

6.2 Competition Act

The material law of structural control (merger control etc.) contained in the Norwegian Competition Act is in line in many material aspects with the EU merger regulations such as Council Regulation No 139/2004 and the system adopted by the EEA Agreement. This includes the definition of concentration.

The Norwegian Competition Authority shall intervene against a concentration if it finds that the concentration will create or strengthen a significant restriction of competition. However, the Norwegian Competition Authority shall, on the same conditions, also intervene against the acquisition of minority shares. If an acquisition of minority shares has been made through successive purchases, the Norwegian Competition Authority may intervene against the transactions that have taken place within two years of the date of the most recent acquisition. Such intervention may include prohibitions, orders and conditional approvals.

As a main rule, concentrations must be notified to the Norwegian Competition Authority. The obligation to notify transactions does not apply to acquisitions of minority shares. As under the EU merger regulations, the Norwegian system contains revenue thresholds. If the involved undertakings do not exceed these thresholds, there is no need to file a notification with the Norwegian

Competition Authority. However, the revenue thresholds under the Norwegian Competition Act are considerably lower than the thresholds under EU merger regulations.

The Norwegian legal system also contains regulations on cartels and the abuse of dominant positions. In this respect, the Norwegian legal system is even more in line with the EU regulations, and the definitions of cartels and abuse are direct translations of the EU regulations. Norway has also adopted a leniency system which may allow for a full pardon or a partial reduction in fines to companies that co-operate with the Norwegian Competition Authority in revealing illegal market behaviour. For example, a company participating in a cartel will, under certain conditions, be entitled to a full pardon if it provides the Norwegian Competition Authority with sufficient evidence of the other company's participation in the cartel.

6.3 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 20 ha with less than 2 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.

III. BUSINESS ENTITIES

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

Both the AS and the ASA are companies where none of the shareholders has personal liability for the obligations of the company.

1.2 Equity

The minimum share capital of an AS is NOK 100,000, while the minimum share capital of an ASA is NOK 1,000,000. The entire share capital may be held by one single shareholder.

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 3 board members elected by the general meeting. However, companies with a share capital of less than NOK 3,000,000 may have fewer than 3 members. The articles of association must 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 3 members of the board of directors, and if the company has a corporate assembly, the board must have at least 5 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 resident in Norway or be citizens of, and with their residential address in, an EU/EEA 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.

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. Both the AS and the ASA are required to have a managing director to be appointed by the board of directors. The managing director must be resident in Norway or be a citizen of, and with a residential address in, an EU/EEA country. However, in an AS with a share capital of less than NOK 3,000,000 the board of directors 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. 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. Resolutions that are passed by the general meeting are legally binding on the company.

1.7 Reporting requirements

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 annual 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.

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, the opening balance sheet and a declaration from an auditor 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.

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 shares in an ASA listed on a Norwegian regulated market is obliged to make a bid for the remaining shares of the company.

2. PARTNERSHIPS

2.1 General

Business activity may also be organised as a partnership. Partnerships are regulated by the Norwegian Partnerships Act 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.

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.

Since the formation of a Norwegian AS requires a share capital of NOK 100,000 there has been a boom in Norwegians establishing a UK LLC with a share capital of GBP 1 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.

IV. EMPLOYMENT

1. GENERAL

Norwegian employment law is codified by the Norwegian Employment Act 2005. The Norwegian Employment 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 Employment Act regulates matters such as limits on working hours, requirements for employment contracts, redundancies and dismissals, working environments, employer obligations and employees' status and rights in connection with the transfer of enterprises (asset deals).

2. WORKING HOURS

As a rule, normal working hours must not exceed 9 hours per 24 hours and 40 hours per 7 days. However, the employer and the employee may agree in writing that such working hours can be exceeded, provided that over a period not exceeding 52 weeks, the average working hours are not longer than 9 hours per 24 hours and 40 hours per 7 days.

Working hours may be prolonged to 9 hours per 24 hours and 48 hours per 7 days through a written agreement between the employer and the employees. However, the average working hours may not exceed 9 hours per 24 hours and 40 hours per 7 days over a period not exceeding 52 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 relationship, including:

- 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 and if the employment is of a temporary nature
- 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
- duration and timing of the agreed daily and weekly working hours
- salary

4. 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 stipulations of the Norwegian Employment Act.

4.1 Justified dismissal

Employees may not be dismissed unless the dismissal can be justified objectively 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.

When dismissals are due to reorganisation, 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 are length of service, qualifications and social conditions.

4.2 Employee discussions

Before making a decision regarding dismissal, the employer shall, to the extent that it is practically possible, discuss the matter with the employee and the employee's 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 should explain the reason for the dismissal. The employee should 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.

4.3 Notice and notice period

Notice must be delivered in writing. Notice from the employer should be given to the employee personally or sent by registered letter to the address provided by the employee. It is advisable to give notice in writing to the employee and to have the employee sign a copy of the written notice 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 6 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.

4.4 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 2 weeks of receiving the notice.

Furthermore, the employee may sue the employer within 8 weeks of the date on which the negotiations were concluded, or if negotiations were not held, within 8 weeks of receiving the notice.

If the employee has sued the employer, the employee is, as a rule, entitled to continue working 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.

5. 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 6 months.

It may be regarded as easier to terminate the employment in the trial period. The dismissal 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.

Unless otherwise stated in the employment contract or in a collective wage agreement, the notice period during the trial period is 14 days.

6. 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 a temporary engagement results from the nature of the work and if such work differs from the normal work of the employer
- as a temporary replacement for another person or persons

Unless otherwise agreed in writing or laid down in a collective agreement, temporary employment contracts shall expire on the expiry of the agreed period or when the specific work is completed. An employee who has been employed for more than 1 year shall receive written notification of the date on which the employment terminates, not later than 1 month prior to such date. If the time limit is not observed, the employer cannot require the employee to leave until 1 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.

7. COMPETITION CLAUSES

As a rule, competition clauses can be included in the employment contract, on the condition that the clauses do not constitute an unreasonable obstacle to the employee's chance of making a living, and that the clauses do not go further than necessary with regard to protecting the employer against competition. This restriction also applies to employees in leading positions and to managing directors. The employer is not completely free to fix the duration of competition clauses – it must be assumed that the courts of law will be reluctant to accept competition clauses which will be effective for more than 2 years after the employment has been terminated.

The test of unreasonableness is an overall evaluation where no individual element in itself will be decisive. Elements taken into account in the evaluation include the following:

- whether the competition clause restricts the employee's access to another employment
- geographical area
- size of any possible compensation
- duration of the competition clause

Should the competition clause in question represent a violation of the Norwegian Contracts Act, this may entail that the clause will cease to apply, but the courts also have the alternative of revising the clause. For example, courts have upheld the competition clause, but limited its duration.

8. HOLIDAY PAYMENTS

According to the Norwegian Holiday Act 1988, employees are entitled to at least 4 weeks and 1

day of vacation. The normal holiday entitlement in Norway is, however, 5 weeks. During the holiday period, employees do not receive any salary, but they do receive holiday pay. However, 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 4 weeks and 1 day, and 12% in cases where the holiday is 5 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.

9. 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.

Employers may apply for a residence permit from within Norway. Employees in enterprises from EU/EEA countries, who are performing services in Norway on a temporary basis, can work in Norway without a permit for up to 3 months. If the stay is going to last for more than 3 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 countries may enter Norway freely, and take up employment right away. They may stay and work in Norway for up to 3 months without a residence permit. For employment lasting longer than 3 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 6 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 so-called D-number which 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. The D-number is required when communicating with public authorities and when carrying out certain transactions in Norway, for example opening a bank account in Norway. Both Norwegian and foreign employees must be registered on the Employer/Employee Register at the Norwegian Social Security Authority (NAV). Foreign employees working on construction or building sites or on the Norwegian continental shelf are exempt from this requirement. They should be reported to the Central Tax Office – Foreign Tax Affairs.

V. TAX

1. CORPORATE INCOME TAX

Companies resident in Norway are subject to Norwegian income tax at a rate of 28%. 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 on their worldwide income. Non-residents are taxed on their Norwegian source income only. For tax purposes partnerships are considered as transparent and are taxed for income at the partners' level.

2. TAXATION OF RESIDENT COMPANIES

2.1 General

All kinds of income may be taxable as corporate income, for example ordinary business income, interest and dividends, capital gains on the disposal of assets and ownership interests and foreign-source income taxable in Norway.

2.2 Participation exemption method

For corporate shareholders, an exemption regime is applicable for dividends and gains on shares. Broadly speaking, the participation exemption method applies to companies, unit trusts, foundations, mutual insurance organisations and cooperative societies.

Under the participation exemption method, dividends and gains are tax-exempt, provided that certain criteria are met, except for 3% of annual net exempted income which is taxable at 28%. The criteria vary for shares in companies resident in Norway, in EU/EEA countries and in other countries.

In general, dividends and gains on shares in Norwegian companies are tax-exempt under the participation exemption method irrespective of participation and holding period.

Dividends and gains on shares in companies resident in EU/EEA countries are also tax exempt irrespective of participation and holding period. However, if the company is resident in a low tax jurisdiction within the EU/EEA area, the company must also be deemed to be genuinely established and to be carrying on genuine business within in its state of residency (substantial business test) in order to be exempt from tax. The interpretation of the substantial business test is not

entirely clear. The test will clearly be met if the company has offices and employees in its state of residency. However, there are good arguments to support the view that far less substance will suffice. There are no requirements regarding participation and holding period for low tax jurisdictions within the EU/EEA area.

Dividends and gains on shares in companies resident in other countries which are not low tax jurisdictions are also tax exempt for corporate shareholders, provided that the corporate shareholder holds 10% of the shares for a period of at least 2 years. Dividends and gains on shares in companies in low tax jurisdictions are not tax-exempt.

3. TAXABLE INCOME IN GENERAL

3.1 Income

Again, all kinds of income may be taxed as corporate income, i.e. ordinary business income, interest, dividends, capital gains on the disposal of asset and ownership interests and foreign-source income taxable in Norway.

3.2 Expenses

When computing net taxable income, the general principle is that all ordinary expenses are deductible. Deductible business expenses include interest on debts, losses on bad debts, management fees, indirect taxes, salaries and related social security contributions, losses on the sale of bonds or shares and formation expenses. Distributed dividends are not deductible when computing taxable income. All interest on business debts is deductible, whether paid periodically or discounted. Research and development costs directly related to an asset must be capitalised. Otherwise, such costs may be deducted immediately.

Entertainment expenses, excess depreciation charges (financial reporting depreciation exceeding tax amortisation, for example depreciation of

revaluation increments), appropriations of profits, donations, taxes on income, extraordinary charges having no relation to normal business and bribes and similar payments are not deductible.

The amount of tax-allowable depreciation is determined by legislation and not the accounts. There are two alternative methods for determining the deductible amount:

- The declining balance method which applies to most tangible assets and goodwill. The statutory depreciation rates are designed to match, as far as possible, the economic depreciation. They vary from 2% to 30%, and are not intended to allow for the build-up of any reserves.
- The linear method which applies to intangibles that are not covered by the rule above.

Land is not depreciable, whilst commercial buildings may be depreciated.

3.3 Capital gains

There is no separate tax on capital gains, and hence capital gains are taxed as ordinary income at the general income tax rate of 28%. Capital gains are included in ordinary income only on realisation. As a general rule, capital gains are computed by reference to the historical costs, less the tax-deductible depreciation taken.

For capital gains arising from the disposal of assets used in the normal course of business, Norwegian tax law allows the seller to defer taxation of part of the gain to later years under certain conditions.

3.4 Losses

Operating losses incurred in business, including losses on bad debts, are normally deductible from other income in the year in which they occur.

Losses may be carried forward and set off against profits without limitation in time. When a company is liquidated, losses may be carried back and set off against profits of the preceding two years. Otherwise, a carry-back of losses is not allowed.

4. SOCIAL SECURITY CONTRIBUTIONS

Employers must make social security contributions in respect of gross salaries paid to the employees, including pension contributions. The salaries paid to managing directors are also subject to employer contributions. There is no ceiling. Employer contributions are deductible for corporate income tax purposes.

The rate of employers' social security 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%.

5. TAXES ON ASSETS

Companies do not have to pay any tax on the net worth of their capital. However, individuals resident in Norway have to pay net wealth tax on shares and interests which they hold in companies and partnerships.

Real estate located in Norway is often subject to a municipal real estate tax. The rates vary from 0.2% to 0.7%.

6. INTERNATIONAL ASPECTS

6.1 Resident companies

Companies incorporated in Norway will be considered to be resident in Norway, while companies incorporated in other states will be con-

sidered to be resident in Norway only if they are managed from Norway at board level.

With regard to the taxation of foreign income of companies resident in Norway, the allocation of income and deductions between the head office in Norway and a permanent establishment abroad is based on the general arm's length principle. With regard to most tax treaty states, the principles under the OECD Model Convention apply.

Double taxation of business profits is normally relieved by an ordinary tax credit for taxes paid abroad. Only a company resident in Norway is entitled to foreign tax credit. The credit may not exceed the Norwegian tax, calculated before deducting the tax credit. For foreign withholding taxes imposed on dividends received by corporate shareholders, the participation exemption method normally applies.

6.2 Non-resident companies

The threshold for non-resident companies to be considered having a permanent establishment in Norway is very low. Broadly speaking, conducting, participating and carrying out business in Norway will be considered as a permanent establishment.

In most of its tax treaties, Norway follows the OECD Model Convention, and accordingly the definition of permanent establishment of the OECD Model Convention applies. Regarding the continental shelf, however, specific treaty provisions normally state that a foreign company will be considered to have a permanent establishment after as little as 30 days of activity within a 12-month period.

Permanent establishments of non-resident companies are taxed at the general income tax rate of 28%. The allocation of income between a foreign head office and a Norwegian permanent establishment is based on the arm's length principle.

Interest paid to a foreign head office is not deductible for any kind of loan from the head office to the Norwegian permanent establishment. Portions of the interest paid by the head office on behalf of the Norwegian permanent establishment and attributable to the debts that are clearly related to the Norwegian permanent establishment may be deducted. The same principle applies to other costs incurred on behalf of the Norwegian permanent establishment by the head office. To be deductible from the taxable income of the Norwegian permanent establishment, the costs must clearly be connected to the Norwegian permanent establishment and payable to a third party. Royalty payments to the head office are not deductible. Portions of the licence fees paid by the head office to third parties for licences used by the Norwegian permanent establishment may be deductible. As a general rule, payments received from the head office are not taxable.

Non-resident companies are not liable to tax on capital gains with their source in Norway, except if the assets disposed of are effectively connected to a business carried out in Norway, which is subject to Norwegian income tax.

Dividends paid to foreign shareholders are subject to a 25% withholding tax as a starting point. 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 even 5%, when paid to corporate shareholders resident in tax treaty states.

Interest and royalties paid to foreign companies are not subject to withholding tax.

7. GROUP TAXATION

A company resident in Norway which holds more than 90% of the shares in other resident compa-

nies and which controls a corresponding number of votes in the general meeting may qualify as a tax group.

However, unlike other countries such as Germany, there is no consolidation of the income of the members of the tax group, but there are the following tax benefits:

- the members of the tax group may make tax-deductible group contributions
- in addition, they may make inter-group transfers without realising unrealised gains

Group contributions may be used by the recipient company to offset tax losses which are otherwise available for a carry-forward. When taking over another company by acquiring more than 90% of the shares, group contributions may be used to offset losses from years before the company was taken over.

8. TRANSACTIONS

Mergers and de-mergers are tax-exempt if all the companies involved are resident in Norway. In a discussion paper from January 2010, the Norwegian government proposes that cross-border mergers between companies from EU/EEA countries may also be carried out tax-free. However, if the transferring company is resident in Norway, assets in Norway must be kept in a permanent establishment in Norway. If the assets are taken out of Norway, the assets will be liable to tax upon exit.

9. TRANSFER PRICING

9.1 General

Transfer prices of affiliated companies are to be fixed according to the arm's length principle. In relation to tax treaty states, transfer prices are to be fixed under the OECD Guidelines for Multinational Enterprises.

9.2 Reporting and documentation requirements

The reporting rules apply to companies and other entities that own or control directly or indirectly, either alone or together with an affiliated party, at least 50% of the voting rights in another entity.

The reporting requirement applies only to transactions during a fiscal year exceeding a total of NOK 10,000,000, or debts at the end of the fiscal year exceeding NOK 25,000,000. The documentation requirement does not apply if the taxpayer, together with the affiliated party, has less than 250 employees and either less than NOK 400,000,000 in total annual turnover, or a total capital on the balance sheet of less than NOK 350,000,000.

The taxpayer is only obliged to provide the transfer pricing documentation on the request of the tax authorities, and in such cases within 45 days after receiving the request.

9.3 Thin capitalisation

Norwegian tax law contains no specific statutory or regulatory prescriptions on thin capitalisation but refers to the arm's length principle. Under the arm's length principle, the capitalisation requirements are determined with reference to the capitalisation with which independent companies operate. In this evaluation the company must be compared with non-affiliated companies operating in the same business sector. Very broadly speaking, a debt/equity ratio of 80:20 will normally be accepted.

10. PARTNERSHIPS

Both partnerships established under Norwegian law and partnerships established under foreign law are treated in the same way.

Partnerships are treated as transparent for tax purposes and taxed at the partners' level. However, the income is calculated as for companies.

Dividends and capital gains on shares owned by partnerships flow directly through to the partners. This means that the taxation of such income depends on the status of the partners, i.e. partners covered under the participation exemption method are tax-exempt whilst individuals will be taxed.

For partners covered under the participation exemption method, gains on interests in the partnership itself may also be tax exempt under the participation exemption method. Such gains will be tax exempt provided that at least 10% of the partnership's investments in shares are investments in shares covered under the participation exemption method which are, broadly speaking, shares in companies from EU/EEA countries and 10% stakes in companies from other countries held for at least two years. Losses on interests of a partnership are deductible for a corporate partner if the partnership's investments in shares covered under the participation exemption method are below 10%.

11. TAX ADMINISTRATION

The income tax year follows the calendar year. Companies have to file tax returns by 31 May in the year following the income tax year. This also applies to foreign companies operating in Norway.

Administrative surcharges are payable where misleading or incomplete information is filed, resulting in an underassessment. The surcharge may be up to 60% of the additional tax payable if misleading information was intentionally filed, but the surcharge may be reduced depending on the circumstances.

Rulings may be obtained from the tax authorities and from local tax inspectors in respect of direct taxes, social security contributions and VAT. With regard to reassessment, reassessments that are not in favour of a company must be notified by the tax authorities within 3 years. However, if the company has filed misleading or incomplete information, reassessments may be notified within 10 years.

12. TAXATION OF INDIVIDUALS

12.1 General

Individuals are liable to income tax in the same way as companies, at a rate of 28%. Income taxed at this rate covers salaries, capital income and business income. Furthermore, salaries and business income derived by individuals are liable to additional tax at rates varying from 9% - 12%. Such income derived by individuals is also liable to social security contributions varying from 7.8% - 11%.

Capital income derived by individuals is subject to 28% tax only.

12.2 Dividends

Since 2006, a system of limited double taxation of dividends is applicable. The basic principle of the system is that the ordinary yield of investments is taxed only once at the company level, whereas distributed profits exceeding the ordinary yield are also taxed at the shareholder level as ordinary income at a flat rate of 28%. In order to achieve the goal of a limited double taxation, the receiving individual is granted a so-called shielding deduction which reduces the taxable dividend.

The shielding deduction is calculated for each share and equals the individual's cost price for the share multiplied by the shielding interest rate that reflects an after-tax yield of a risk-free investment. This interest rate is determined by

the Norwegian Ministry of Finance every second month, and corresponds to the interest for 3-month government bonds after tax. The shielding model applies to investments in both companies resident in Norway and other companies.

The effect of the new system is that distributed profits are subject to a total marginal tax rate of 48.16%, i.e. 28% corporate tax and 28% tax on the distributed 72% of the profits. Unused shielding deductions for one year may be carried forward to be offset against dividends received on the same share in a later year.

12.3 Distributed profits from partnerships

In connection with the introduction of a limited double taxation regime for dividends, a similar system for taxation of distributed profits of partnerships has been in effect since 2006. Under this system, the receiving individual is granted a shielding deduction, which reduces the taxable distribution.

13. VAT

13.1 General

The Norwegian value added tax (VAT) is a multi-stage, non-cumulative general tax on consumption of goods and services. It is payable to the tax authorities by the VAT registered person on the value that the person has added in the supply chain (output VAT less input VAT). As most other OECD countries, Norway applies a net consumption VAT, calculated according to the indirect subtraction method.

The 27 EU member states and the 3 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 Agree-

ment, Norway is not required to harmonise its VAT law with the EU VAT law. Fiscal frontiers still exist between Norway and the EU, and transactions between the two are still treated as traditional import and export supplies with the associated customs formalities and paperwork.

The standard rate of VAT is 25%. A reduced rate of 14% applies to foodstuffs. A super-reduced rate of 8% applies to passenger transport, the national television licence fee, cinemas and hotel and accommodation services. The zero rate applies to exports and a number of other supplies.

13.2 Place of taxation

The Norwegian VAT Act 2009 does not contain any specific provisions on the place of supply of goods and services. Certain principles can, however, be deduced from various sections of the law and the relevant regulations. 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 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 Norwegian customs 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 goods principle.

Services physically performed in Norway, for example work on movable assets and real estate 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. For electronic communication services, the same applies irrespective of the foreign recipient's status.

The place of supply of services from abroad 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 that is due. Entities that are not registered for VAT purposes, apart from private individuals, must file a special quarterly VAT return on the services purchased.

13.3 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 authorities if the enterprise makes supplies that are subject to VAT above 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 fiscal representative, provided that 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 fiscal representative and the foreign enterprise are jointly and severally liable for correct reporting and any tax payable. The representative must have his residence or place of established business in Norway. In practice, the foreign enterprise is registered with the regional tax authorities of the place of establishment of the representative.

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 be required to be registered in Norway for VAT purposes if the activity were carried out there, and the VAT on the activity would be deductible. 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.

VI. DISPUTE RESOLUTION

1. GENERAL

Disputes between individuals and business entities as well as other private legal entities, and any 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.

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 2005.

2.2 Conciliation boards

The conciliation boards are judicial bodies. They are comprised of 3 lay persons, often senior citizens, such as retired local politicians. In total, there are 422 conciliation boards in Norway, one in almost every 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.

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 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 67 district courts in Norway. The most important district court in terms of the number of disputes decided and staff is the District Court of Oslo.

Proceedings before the district court are instigated 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 3 weeks from when the writ is served.

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 6 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, counter-

claims 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 2 to 2 weeks after the main hearing. However, there are exceptions and it sometimes takes longer.

2.4 Courts of appeal

There are 6 courts of appeal in Norway. In general, most judgements rendered by district courts can be appealed to a court of appeal within 1 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 17% 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

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.

One of the few 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 1997. Judgements rendered by the Norwegian Social Security Court may be appealed to the court of appeal at the venue.

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 was ratified by Norway on 1 July 2009. On the basis of the Lugano Convention, judgements rendered by courts from states which

have signed the Lugano Convention (EU/EEA countries) 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.

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 2004, arbitration proceedings are subject to the parties having mutually agreed upon arbitration, either in writing or orally.

In the event of disputes to which a consumer is party, the arbitration agreement must have been entered into before the relevant dispute arose and must be confirmed by a written agreement signed by both parties. Furthermore, a consumer who actually engages in arbitration proceedings must be made aware of the limited availability of appeal or review by a judicial body. The consumer also has to be made aware of the fact that an arbitration agreement which does not fulfil the mandatory requirements, is not legally binding for him.

Norway has ratified the New York Convention on the Enforcement and Recognition of Foreign Arbitral Awards 1958. In this respect it is worth mentioning that foreign arbitral awards rendered in other states which also are party to the New York Convention can actually be enforced in Norway. As this might not be the case for ordinary court judgements, parties to an international contract should consider arbitration as a possible better alternative to dispute resolution in the ordinary courts.

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**We see the whole picture
You get the opportunities
Expect us to deliver more than you expect**

This guide "Doing business in Norway" aims to provide an introduction to various aspects under Norwegian law and does not contain any legal advice. We hope that this guide is of assistance to foreign enterprises and anyone else who is interested in Norwegian law. However, before dealing with any Norwegian legal aspects, legal advice from us or any other lawyers qualified in Norwegian law should be sought.

Grette is a Norwegian law firm located in Oslo which provides advice and solutions to private and public enterprises across the entire field of business law. About 65 lawyers with first-rate expertise, a high level of professional skills and relevant hands-on industry experience put the clients' needs and interests first.

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