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**Our date:** 06.11.2023  
**Our reference:** 22/06649-24

**Your date**  
**Your reference:**

## **DAT A/S – UAB DAT LT - Advance Notification - Working environment regulations**

The Norwegian Civil Aviation Authority refer to previous correspondence regarding DAT A/S and UAB DAT LTs operations in Norway.

As previously stated, the Norwegian Civil Aviation Authority (CAA Norway) has a responsibility to conduct inspections and other oversight activities to ensure that operators in Norway comply with national labour law, more specifically the Working Environment Act<sup>1</sup> and associated regulations.

CAA Norway conducts necessary investigations to clarify whether Norwegian law applies, and furthermore if the operators comply with the relevant regulations. This includes the posting of workers directive, implemented in Norwegian law through the Regulations relating to posted employees.<sup>2</sup>

### **Background**

CAA Norway has conducted thorough investigations regarding DAT A/S and UAB DAT LTs operations in Norway. The following is a description of previous dialogue between the companies and the CAA Norway.

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<sup>1</sup> Act relating to the working environment, working hours and employment protection, etc. ([Working Environment Act](#)), 17 June 2006 no. 62.

<sup>2</sup> [Regulations relating to posted employees](#) 16 December 2005 no. 1566.

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We have upon request received information and documentation regarding the operations, crew, contractual aspects, and operational patterns. Initially, we received information on the 22<sup>nd</sup> of September 2021, that the crew members who operate the routes in Norway have a homebase outside Norway, cf. regulation (EU) 965/2012, CS.FTL.1200, and that the crew members who works in so-called "ATR operations", can work within five areas, including Norway, Denmark, Finland, Germany and Italy.

CAA Norway requested further information regarding the operations and crew arrangements. DAT A/S and UAB DAT LT responded to the inquiry on the 13<sup>th</sup> of April 2022, and asked for clarification on several of our questions.

At the same time, it was also pointed out that *"...no staff is ever stationed on an outstation indefinitely"*, and that *"the company is providing and is responsible for all costs associated with hotels and ground transportation for staff in Norway"*. It was also provided information regarding contractual matters, that *"there is a mix of direct employment and contracting via an agency depending on the staff members personal base"*. The companies further noted that the operations in Lakselv were no different to the operations in Florø and Stord.

CAA Norway gave a further clarification of the requested information on the 30<sup>th</sup> of May 2022. DAT A/S and UAB DAT LT responded to the request and submitted flight plans, crew plans and lists of crew members on the 6<sup>th</sup> of June 2022. However, the crew lists indicated that the crew were either in a contractual relation with DAT A/S or UAB DAT LT, but they did not provide further information as requested.

On the 24<sup>th</sup> of June 2022, we asked for clarification on the remaining questions, and requested copies of contracts for crew members from DAT A/S and UAB DAT LT based on a randomized selection from the crew lists. After some guidance regarding privacy and how this would be handled in accordance with provisions of GDPR and the Freedom of Information Act, we received contracts for three employees of DAT on the 28<sup>th</sup> of July 2022.

After requesting the remaining contracts, we received two standard contracts on the 12<sup>th</sup> of September 2022 for crew members (CC and FD) which are affiliated through the staffing company First2 Resource (F2R) to UAB DAT LT. It was informed that DAT A/S and UAB DAT LT had not succeeded in obtaining a copy of the specific contracts, as they were not a party to the contract in these cases. It was nevertheless confirmed that the contracts in question were standard for the crew members.

The information from DAT A/S and UAB DAT LT was initially somewhat misleading regarding contractual relations. The specific crew lists did not provide a sufficient explanation of the contract parties, but the companies did subsequently send updated crew lists.

CAA Norway also asked for information whether any changes had been made to their operations in Norway, including changes on the staffing (persons and quantity), and whether crew members were temporarily stationed in Norway or if they followed the same operational pattern. The companies specified by e-mail the 20<sup>th</sup> of March 2023 that no changes have been made regarding the operations or the operational conditions compared to the information given at an earlier stage. It was further specified that DAT A/S and UAB DAT LT do not have crew bases in Norway and that all accommodation and transport are provided for the crew

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members. It was also specified from DAT A/S and UAB DAT LT that no crew members are temporarily or indefinitely stationed in Norway.

The CAA Norway had a further dialogue with a representative of DAT A/S on the 19<sup>th</sup> of June 2023. It was clarified that the companies have a crew house available for accommodation in Florø, and that they used hotels for accommodation in Lakselv and in Ørland. The facilities in Florø are used for accommodation for crewmembers.

It was also stated that the airplanes are parked overnight in the respective locations. Line maintenance is also carried out at these three locations. Technicians are performing necessary maintenance at the line stations and follow a work-rotation of 1-2 weeks before they are replaced by new personnel after the end of the working period.

DAT A/S and UAB DAT LT submitted the 30<sup>th</sup> of June 2023 updated master schedules of their crew and flights carried out in the period January to April 2023. The master schedules have been reviewed to determine the concrete and normal working pattern.

### **Preliminary assessment**

CAA Norway has assessed the business operations in Norway and the relevant documents against the provisions of the Working Environment Act, chapter 1 and the Regulations relating to posted employees, section 2.

DAT A/S is a company with its headquarters in Denmark and is registered in Norway as a Norwegian foreign enterprise - NUF. DAT A/S subsidiary UAB DAT LT performs important organizational tasks coordinated from the office in Lithuania, including (but not limited to) key functions such as crew control and major maintenance services. The companies have regular operations in Norway, Denmark, Italy, and Germany.

The companies have established operations (not time-limited) in Norway, through the allocation of PSO-routes, as well as operations between Stord-Oslo and operations between Oslo, Ørland and Harstad/Narvik (Evenes).

According to the documentation made available for CAA Norway, the crew from DAT A/S and UAB DAT LT are homebased/has origin in different countries across Europe, including Lithuania, Latvia, Italy, Poland, Germany, Spain, France, the Netherlands, Estonia, Austria, England, Ireland, and Denmark. The master plan states that one person has its defined home base/origin in Oslo/Drammen.

The crew are travelling (passive) with other airlines to/from the locations where the crewmembers will start/stop their roster/work. DAT A/S and UAB DAT LT have stated that transport and accommodation are covered by the companies. Arrangements have been made for continuously accommodation in a company crew house in Florø, as well as accommodation in hotels in other locations.

The extent of the operations in Norway indicates stable and non-time-limited operations in Norway. Although crewmembers are rotated and operates routes in several countries, they still have substantial connection to Norway, and have rather extensive work periods in Norway.

The working environment regulations will apply to employees who are resident in Norway and who work from a Norwegian home base. The companies will be obliged to fulfil their obligations according to the regulations in such cases.

After a review of submitted documentation and contracts, we are of the opinion that the Norwegian Working Environment Act will apply to crew with defined home base in Norway. We further believe that there are sufficient grounds to conclude that the regulations relating to posted employees will be applicable to crew with residence in various countries in Europe, who periodically work on domestic routes in Norway.

### **Advance notification**

In accordance with the Public Administration Act, section 16<sup>3</sup>, a party who has not already expressed their opinion on the case through an application or by other means, shall be notified before an administrative decision is made and be given an opportunity to express their opinion within a stipulated time limit.

Through the above-mentioned dialogue and investigations, DAT A/S and UAB DAT LT have been given the opportunity to give descriptions on the businesses' operations, contracts, and relevant information on several occasions.

For the sake of clarity, DAT A/S and UAB DAT LT can submit additional comments before the CAA Norway makes an administrative decision and issues orders related to the provisions relating to working and employment conditions. cf. Public Administration Act, section 16, and the Working Environment Act.

We also ask for a copy of the agreement(s) between UAB DAT LT and F2R regarding access on crew.

We kindly ask that any comments to be sent to: [postmottak@caa.no](mailto:postmottak@caa.no) and [ahf@caa.no](mailto:ahf@caa.no), by the end of 26<sup>th</sup> of November 2023.

This advance notification is given to both DAT A/S and subsidiary UAB DAT LT, as separate legal entities, based on the activities in Norway.

The advance notification is sent by mail to DAT A/S, which has been the primary point of contact. Electronic copies are sent by e-mail to the contact persons for both DAT A/S and UAB DAT LT, [robert@dat.dk](mailto:robert@dat.dk), [krh@dat.dk](mailto:krh@dat.dk) and [mei@dat.dk](mailto:mei@dat.dk).

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<sup>3</sup> Act relating to procedure in cases concerning the public administration ([Public Administration Act](#)), 10 February 1967.

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Yours sincerely

Nina Beate Vindvik  
Legal Director  
Legal and Regulatory Affairs

Anne Helene Hunstad Fodnes  
Senior Legal Advisor

*This document has been electronically validated, thus eliminating the need for a physical signature.*