

## FACT SHEET

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### State aid – principles, control and recovery

The EFTA Surveillance Authority (ESA) controls state aid granted by Norway, Iceland and Liechtenstein in the same way as the European Commission does for state aid granted by the EU Member States.

#### State aid at a glance:

- is public support for commercial undertakings;
- appears in diverse forms (grants, loans, tax cuts etc.);
- is, in principle, banned under EEA law;
- there are however many exceptions;
- it must be notified to ESA in advance;
- if not notified, it's unlawful;
- ESA can order EFTA States to recover illegal state aid from beneficiaries if such aid is not in line with the EEA law.

#### What is state aid?

State aid is financial support granted by public bodies to undertakings active on a market.

State aid is a broad concept. In simple terms it's aid granted by a public entity that gives a selective advantage that would not be obtained under normal market conditions. It could be given in the form of grants, tax cuts, loans, state guarantees, preferential terms granted from state resources. The most obvious form of state aid is e.g. government grants to businesses intended to help investment, or providing aid to rescue and restructure companies that are in trouble.

As stipulated in the EEA agreement<sup>1</sup>, state aid is present when assistance is provided:

- by an EFTA State or through public resources;
- that confers an advantage to the recipient(s);
- that favours certain economic undertakings or the production of certain goods;
- that distorts or has the potential to distort competition and;
- that affects trade across the EEA;

The support in question can only be categorized as state aid if all the conditions above are fulfilled.

#### The rules of the game

The EEA agreement, just as the EU treaties, contains a general ban on state aid to prevent distortions of competition and negative effects on EEA trade. The rules are meant to ensure a level playing field for companies across the EEA and prevent protectionism in the form of government assistance.

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<sup>1</sup> Article 61(1) in the EEA Agreement.

There are many exceptions<sup>2</sup> which means that state aid can be allowed when necessary to uphold a well functioning economy, for regional development or investment in R&D or to protect the environment among other things. Nevertheless all state aid must be kept in check and is only allowed if it complies with the strict requirements. Aid for the everyday operating cost of companies (operational aid) is rarely allowed.

### **ESA's role**

The state aid rules are enforced by ESA regarding Norway, Iceland and Liechtenstein. All plans to grant state aid must be notified to ESA prior to implementation. ESA assesses whether such plans constitute state aid and if such aid is eligible for exemption.

To enforce the rules, ESA has the power to require EFTA States to provide relevant information, and to order the recovery of any aid paid in breach of the EEA Agreement.

### **Recovery of state aid**

In cases where an EFTA State does not notify ESA of its plans to grant aid prior to implementation, the aid is unlawful under EEA law from the time that it is granted.

Where ESA, after investigation, concludes that the aid is unlawful, it can order the State to require a repayment of any unlawful and incompatible aid from the beneficiary concerned.

The recovery of unlawful and incompatible aid shall be achieved in accordance with the procedures under the national law of the EFTA State concerned. Such procedures shall lead to an effective and immediate execution of ESA's decision.

As regards the timetable for the implementation of the ESA's decision, ESA has specified two time-limits, according to its guidelines:

1. A first time-limit of two months following the entry into force of the decision, within which the EFTA State must inform ESA which measures it plans to take;
2. A second time-limit of four months following the entry into force of the decision, within which ESA's recovery decision must have been executed.

### **For more information, see:**

- [The state aid section of the Authority's website](#)
- [The Authority's state aid guidelines](#)
- [Guidelines on recovery of unlawful and incompatible state aid](#)

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<sup>2</sup> Article 61(2) and 61(3) in the EEA Agreement.