

Brussels, 13 December 2023
Case No: 91136
Document No: 1419382
Decision No 184/23/COL

EFTA SURVEILLANCE AUTHORITY DECISION

of 13 December 2023

amending the substantive rules in the field of State aid by extending the period of application provided for in the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty

The EFTA Surveillance Authority ('ESA'),

HAVING regard to:

the Agreement on the European Economic Area ('the EEA Agreement'), in particular to Articles 61 to 63 and Protocol 26,

the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ('the Surveillance and Court Agreement'), in particular to Article 24 and Article 5(2)(b),

Protocol 3 to the Surveillance and Court Agreement ('Protocol 3'), in particular to Article 1(1) of Part I.

WHEREAS:

Under Article 24 of the Surveillance and Court Agreement, ESA is to give effect to the provisions of the EEA Agreement concerning State aid.

Under Article 5(2)(b) of the Surveillance and Court Agreement, ESA is to issue notices or guidelines on matters dealt with in the EEA Agreement, if that Agreement or the Surveillance and Court Agreement expressly so provides or if ESA considers it necessary.

On 10 September 2014, ESA adopted Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty ⁽¹⁾, as amended ('ESA's 2014 Guidelines') ⁽²⁾.

⁽¹⁾ ESA Decision No 321/14/COL of 10 September 2014 amending for the one-hundredth time the procedural and substantive rules in the field of State aid by adopting new Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty. OJ L 271, 16.10.2015, p. 35–62, and EEA Supplement No 62, 15.10.2015, p. 1.

⁽²⁾ ESA Decision No 90/20/COL of 15 July 2020 amending, for the one hundred and seventh time, the procedural and substantive rules in the field of State aid, by amending and prolonging certain State aid guidelines. OJ L 359, 29.10.2020, p. 16–19, and EEA Supplement No 68, 29.10.2020, p. 4.

ESA's 2014 Guidelines correspond to the European Commission's ('the Commission's) Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty ('the Commission's 2014 Guidelines') ⁽³⁾.

On 29 November 2023, the Commission adopted a Communication extending the period of application provided for in the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty ('the Commission's 2023 Amendment') ⁽⁴⁾. Under the Commission's 2023 Amendment, the period of application of the Commission's 2014 Guidelines was prolonged until 31 December 2025.

The Commission's 2023 Amendment is also of relevance for the European Economic Area ('EEA').

Uniform application of the EEA State aid rules is to be ensured throughout the EEA in line with the objective of homogeneity established in Article 1 of the EEA Agreement.

According to paragraph II under the heading 'GENERAL' of Annex XV to the EEA Agreement, ESA, after consultation with the Commission, is to adopt acts corresponding to those adopted by the Commission.

HAVING consulted the Commission,

HAVING consulted the EFTA States,

HAS ADOPTED THIS DECISION:

Article 1

Point 135 of ESA's 2014 Guidelines is amended as follows:

'The Authority will apply these guidelines with effect from 10 September 2014 until 31 December 2025.'

Done at Brussels,

For the EFTA Surveillance Authority

⁽³⁾ Communication from the Commission — Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty. [OJ C 249, 31.7.2014, p. 1–28](#). Amended under Communication from the Commission concerning the prolongation and the amendments of the [...] Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty [...]. [OJ C 224, 8.7.2020, p. 2–4](#).

⁽⁴⁾ Communication from the Commission — amending the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, as regards the period of application. [OJ C, C/2023/1212, 29.11.2023](#).

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