

Case No: 92678  
Document No: 1568101  
Decision No: 082/26/COL

## EFTA SURVEILLANCE AUTHORITY DECISION

of 29 April 2026

amending the substantive rules in the field of State aid by introducing new Guidelines on State aid for land and multimodal transport

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 shall give effect to the provisions of the EEA Agreement concerning State aid.

Under Article 5(2)(b) of the Surveillance and Court Agreement, ESA shall 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.

Under Article 1(1) of Part I of Protocol 3, ESA shall keep under constant review all systems of aid existing in the EFTA States <sup>(1)</sup> and propose any appropriate measures required by the progressive development or by the functioning of the EEA Agreement.

On 16 March 2026, the European Commission ('the Commission') adopted the Guidelines on State aid for land and multimodal transport ('the LMTG') <sup>(2)</sup>.

The LMTG are also of relevance for the European Economic Area ('the 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.

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<sup>(1)</sup> Article 1(b) of the Surveillance and Court Agreement states that 'the term "EFTA States" means the Republic of Iceland and the Kingdom of Norway and, under the conditions laid down by Article 1(2) of the Protocol Adjusting the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, the Principality of Liechtenstein'.

<sup>(2)</sup> OJ C/2026/1656, 30.3.2026.

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.

The LMTG may refer to certain European Union policy instruments and to certain European Union legal acts that have not been incorporated into the EEA Agreement. With a view to ensuring uniform application of State aid provisions and equal conditions of competition throughout the EEA, ESA will generally apply the same points of reference as the Commission when assessing the compatibility of aid with the functioning of the EEA Agreement <sup>(3)</sup>.

HAVING consulted the Commission,

HAVING consulted the EFTA States,

HAS ADOPTED THIS DECISION:

#### *Article 1*

- (1) The substantive rules in the field of State aid shall be amended by introducing the LMTG. The LMTG are annexed to this decision and form an integral part of it.
- (2) The LMTG replace ESA's 2008 Guidelines for State aid for railway undertakings ('ESA's 2008 Railway Guidelines') <sup>(4)</sup>.
- (3) ESA will apply the LMTG to notified aid on which it is called upon to take a decision after 29 April 2026, even where the aid was notified before that date.
- (4) In accordance with ESA's Guidelines on the applicable rules for the assessment of unlawful State aid <sup>(5)</sup>, ESA will apply the LMTG to non-notified aid if the aid was granted on or after 29 April 2026, whereas ESA will apply the rules in force at the time when the aid was granted in all other cases.

#### *Article 2*

ESA applies the LMTG with the following adaptations where applicable, including but not limited to:

- (a) If there is a reference to 'Member State(s)', ESA reads it as a reference to 'EFTA State(s)' or, where appropriate, 'EEA State(s)';
- (b) if there is a reference to 'the European Commission', ESA reads it, where appropriate, as a reference to 'the EFTA Surveillance Authority';
- (c) if there is a reference to 'the Treaty' or 'TFEU', ESA reads it, where appropriate, as a reference to 'the EEA Agreement';
- (d) if there is a reference to 'Union's rules on State aid', ESA reads it as a reference to 'the EEA rules on State aid';

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<sup>(3)</sup> Pending the incorporation of Commission Regulation (EU) 2026/562 of 16 March 2026 declaring certain categories of aid in the rail, inland waterways and multimodal transport sector compatible with the internal market in application of Articles 93, 107 and 108 of the Treaty on the Functioning of the European Union (C/2026/1646, OJ L, 2026/562, 30.3.2026) ("the TBER") into the EEA Agreement, ESA will assess measures falling within the scope of the TBER under Article 49 of the EEA Agreement and the LMTG.

<sup>(4)</sup> OJ L 105, 21.4.2011, p. 32–78.

<sup>(5)</sup> OJ L 73, 19.3.2009, p. 23–29.

- (e) if there is a reference to Article 93 TFEU, ESA reads it as a reference to Article 49 of the EEA Agreement;
- (f) if there is a reference to Article 100 TFEU, ESA reads it as a reference to Article 47 of the EEA Agreement;
- (g) if there is a reference to Article 106 TFEU or sections of that Article, ESA reads it as a reference to Article 59 of the EEA Agreement and the corresponding sections of that Article;
- (h) if there is a reference to Article 107 TFEU or sections of that Article, ESA reads it as a reference to Article 61 of the EEA Agreement and the corresponding sections of that Article;
- (i) if there is a reference to Article 108 TFEU or sections of that Article, ESA reads it as a reference to Article 1 of Part I of Protocol 3 and the corresponding sections of that Article;
- (j) if there is a reference to Article 170 or 174 TFEU, ESA reads it as a reference to Article 1, in particular Article 1(2)(f) of the EEA Agreement;
- (k) if there is a reference to Commission Regulation (EU) No 794/2004 <sup>(6)</sup>, ESA reads it as a reference to EFTA Surveillance Authority Decision 195/04/COL;
- (l) if there is a reference to Council Regulation (EU) 2015/1589 <sup>(7)</sup>, ESA reads it as a reference to Part II of Protocol 3;
- (m) if there is a reference to the wording '(in-)compatible with the internal market', ESA reads it as '(in-)compatible with the functioning of the EEA Agreement';
- (n) if there is a reference to the wording 'within (or outside) the Union' or 'within the EU', ESA reads it as 'within (or outside) the EEA';
- (o) if there is a reference to 'Union law' or 'EU law', ESA reads it as a reference to 'EEA law';
- (p) if there is a reference to 'EU rules' or 'EU legislation', ESA reads it as a reference to 'EEA rules' or 'EEA legislation';
- (q) if there is a reference to the terms 'Union standards', 'EU standard(s)', 'EU regulatory measures' or 'EU level', ESA reads it as a reference to 'EEA standard(s)', 'EEA regulatory measures' or 'EEA level';
- (r) If there is a reference to 'the general interests of the EU', ESA reads it as a reference to 'the general interests of the EEA';
- (s) if there is a reference to Commission Communications, Notices or Guidelines, ESA reads it as a reference to the corresponding ESA Guidelines.

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<sup>(6)</sup> Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 140, 30.4.2004, p.1).

<sup>(7)</sup> Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 248, 24.9.2015, p. 9).

*Article 3*

Point 61 of the LMTG is replaced by:

'In this regard, the TBER covers certain categories of State aid meeting the needs of transport coordination in the land transport sector. Subject to the incorporation of the TBER into the EEA Agreement, such aid measures, if granted in compliance with the applicable compatibility conditions set out in the TBER, do not give rise to any significant distortion of competition and trade, and therefore are deemed compatible with the functioning of the EEA Agreement under Article 49 of the EEA Agreement and are not subject to the notification requirement. Pending the incorporation of the TBER into the EEA Agreement, aid measures falling within the scope of the TBER are subject to the requirement of prior notification to ESA and will be assessed by ESA under Article 49 of the EEA Agreement and the LMTG.'

*Article 4*

Point 264 of the LMTG is replaced by:

'ESA proposes the appropriate measures below to the EFTA States under Article 1(1) of Part I of Protocol 3:

- (a) The EFTA States amend, where necessary, existing aid schemes authorised under ESA's 2008 Railway Guidelines or directly under Article 49 of the EEA Agreement in order to bring them into line with the LMTG by no later than 1 March 2027;
- (b) The EFTA States give their explicit unconditional agreement to the appropriate measures proposed in point 264(a) within two months from the date of publication of this decision in the EEA Section of and EEA Supplement to the Official Journal of the European Union. In the absence of a reply, ESA will assume that the EFTA State in question does not agree with the proposed measures.'

*Article 5*

Annex I to the LMTG is amended as follows:

In the heading of Annex I, the words 'Aid that meets the needs of transport coordination – measures covered by the TBER and measures to be notified under these guidelines' are replaced by the words 'Aid that meets the needs of transport coordination – measures covered by the TBER (subject to its incorporation into the EEA Agreement) and measures to be notified under these guidelines'

Only the English language version of this decision is authentic.

Done in Brussels,

For the EFTA Surveillance Authority

Arne Røksund  
President  
Responsible College Member

Árni Páll Arnason  
College Member

Nuscha Wieczorek  
College Member

Melpo-Menie Joséphidès  
Countersigning as Director,  
Legal and Executive Affairs

*This document has been electronically authenticated by Arne Roeksund, Melpo-Menie Josephides.*

ANNEX: Communication from the European Commission – Guidelines on State aid for land and multimodal transport and its Annexes I and II, C/2026/1656 (Document No 1599174)