

EFTA SURVEILLANCE AUTHORITY DECISION No 152/23/COL**of 22 November 2023****amending the substantive rules in the field of State aid by extending the transitional period provided for in the Guidelines on State aid to airports and airlines concerning regional airports [2024/862]**

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,

Having regard to 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),

Having regard to 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 28 May 2014, ESA adopted Guidelines on State aid to airports and airlines ⁽¹⁾, as amended ('ESA's 2014 Guidelines') ⁽²⁾.

ESA's 2014 Guidelines correspond to the European Commission's ('the Commission's') Guidelines on State aid to airports and airlines ('the Commission's 2014 Guidelines') ⁽³⁾.

On 7 July 2023, the Commission adopted a Communication extending the transitional period provided for in the Guidelines on State aid to airports and airlines concerning regional airports ('the Commission's 2023 Amendment') ⁽⁴⁾. Under the Commission's 2023 Amendment, the transitional period for granting operating aid to airports with an annual traffic not exceeding 3 million passengers was prolonged until 3 April 2027.

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.

ESA further notes that the developments concerning the aviation sector described in point 5 of the Commission's 2023 Amendment are applicable across the EEA.

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.

⁽¹⁾ ESA Decision No 216/14/COL of 28 May 2014 amending for the ninety-sixth time the procedural and substantive rules in the field of State aid by adopting new Guidelines on State aid to airports and airlines (OJ L 318, 24.11.2016, p. 17, and EEA Supplement No 66, 24.11.2016, p. 1).

⁽²⁾ ESA Decision No 302/14/COL of 16 July 2014 amending for the ninety-ninth time the procedural and substantive rules in the field of State aid by modifying certain State aid Guidelines (OJ L 15, 22.1.2015, p. 103, and EEA Supplement No 4, 22.1.2015, p. 1).

⁽³⁾ Communication from the Commission — Guidelines on State aid to airports and airlines (OJ C 99, 4.4.2014, p. 3). Amended under Communication from the Commission concerning the prolongation of the specific regime for operating aid for airports with up to 700 000 passengers per annum provided for in the Guidelines on State aid to airports and airlines (OJ C 456, 18.12.2018, p. 27).

⁽⁴⁾ Communication from the Commission — extending the transitional period provided for in the Guidelines on State aid to airports and airlines concerning regional airports (OJ C 244, 11.7.2023, p. 1).

Having consulted the Commission,

Having consulted the EFTA States,

HAS ADOPTED THIS DECISION:

Article 1

ESA's 2014 Guidelines are amended as set out in the Commission's 2023 Amendment. The Commission's 2023 Amendment is annexed to this Decision and forms an integral part of it.

Article 2

ESA applies the Commission's 2023 Amendment, points 8 to 16, and thereby amends ESA's 2014 Guidelines, with the following adaptations:

- (a) if there is a reference to 'Member State', ESA reads it as a reference to 'EFTA State' ⁽ⁱ⁾, or where appropriate 'EEA State';
- (b) if there is a reference to the 'Commission', ESA reads it, where appropriate, as a reference to the 'Authority';
- (c) if there is a reference to 'the Treaty', ESA reads it as a reference to 'the EEA Agreement';
- (d) If there is a reference to the 'Union', ESA reads it as a reference to the EEA;
- (e) 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;
- (f) if there is a reference to the wording 'compatible with the internal market', ESA reads it as 'compatible with the functioning of the EEA Agreement';
- (g) instead of '4 April 2014' referred to in points 3, 9 and 16 of the Commission's 2023 Amendment, ESA reads it as a reference to '28 May 2014';
- (h) instead of '3 April 2027' as referred to in point 6 of the Commission's 2023 Amendment, ESA reads it as a reference to '27 May 2027'.

Done at Brussels, 22 November 2023.

For the EFTA Surveillance Authority

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⁽ⁱ⁾ The 'EFTA States' refers to Iceland, Liechtenstein and Norway.