

EFTA SURVEILLANCE AUTHORITY 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 [2015/95]**

THE EFTA SURVEILLANCE AUTHORITY ('the Authority'),

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

HAVING REGARD to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ('Surveillance and Court Agreement'), in particular to Articles 5(2)(b) and 24 thereof and Article 1 in Part I of Protocol 3 thereof,

Whereas:

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

Under Article 5(2)(b) of the Surveillance and Court Agreement, the Authority 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 the Authority considers it necessary.

On 21 May 2014, the European Commission adopted a communication amending the communications from the Commission on EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks, on Guidelines on regional State aid for 2014-2020, on State aid for films and other audiovisual works, on Guidelines on State aid to promote risk finance investments and on Guidelines on State aid to airports and airlines ⁽¹⁾. The objectives of the amendments are to align the transparency provisions across the different State aid Guidelines and to simplify the current provisions.

This Communication is of relevance to the European Economic Area.

The uniform application of the EEA State aid rules is to be ensured throughout the European Economic Area in line with the objective of homogeneity established in Article 1 of the EEA Agreement.

According to point II under the heading 'GENERAL' of Annex XV to the EEA Agreement, the Authority, after consultation with the European Commission, is to adopt new rules, corresponding to those adopted by the European Commission.

HAVING consulted the European Commission,

HAVING consulted the EFTA States by a letter dated 30 June 2014 on the subject,

HAS ADOPTED THIS DECISION:

Article 1

The substantive rules in the field of State aid shall be amended as follows.

Article 2

This Decision replaces the following paragraphs:

- on the Guidelines for the application of State aid rules in relation to rapid deployment of broadband network ⁽²⁾, the first two sentences of paragraph 74(j),

⁽¹⁾ OJ C 198, 27.6.2014, p. 30.

⁽²⁾ Not yet published in the OJ. Available at: <http://www.eftasurv.int/media/state-aid-guidelines/Part-IV—Application-of-state-aid-rules-in-relation-to-rapid-deployment-of-broadband-networks.pdf>

- on the Guidelines on regional State aid for 2014-2020 ⁽¹⁾, paragraph 135,
- on the Guidelines on State aid for films and other audiovisual works ⁽²⁾, paragraph 51(7),
- on the Guidelines on State aid to airports and airlines ⁽³⁾, paragraphs 162 and 163;

by:

EFTA States shall ensure the publication of the following information on a comprehensive State aid website, at national or regional level:

- the full text of the approved aid scheme or the individual aid granting decision and its implementing provisions, or a link to it,
- the identity of the granting authority(ies),
- the identity of the individual beneficiaries, the form and amount of aid granted to each beneficiary, the date of granting, the type of undertaking (SME/large company), the region in which the beneficiary is located (at statistical region level 2) (*) and the principal economic sector in which the beneficiary has its activity (at NACE group level) (**).

Such a requirement can be waived with respect to individual aid awards below EUR 500 000. For schemes in the form of tax advantage, the information on individual aid amounts (***) can be provided in the following ranges (in EUR million): (0,5-1); (1-2); (2-5); (5-10); (10-30); (30 and more).

Such information must be published after the decision to grant the aid has been taken, must be kept for at least 10 years and must be available to the general public without restrictions (****). EFTA States will not be required to publish the abovementioned information before 1 July 2016 (*****).

(*) The term “Statistical region” is used instead of the acronym “NUTS” in the corresponding Commission Guidelines. NUTS is derived from the title “Nomenclature of Territorial Units for Statistics” according to Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1). This regulation has not been incorporated into the EEA Agreement. However, in order to achieve common definitions in an ever-increasing demand for statistical information at a regional level, the Statistical Office of the European Union, Eurostat, and the National Institutes of the candidate countries and EFTA have agreed that statistical regions would be established similar to the NUTS classification.

(**) With the exception of business secrets and other confidential information in duly justified cases and subject to the Authority’s agreement (See the Authority Guidelines on professional secrecy in State aid decisions (OJ L 154, 8.6.2006, p. 27 and EEA Supplement No 29, 8.6.2006, p. 1)).

(***) The amount to be published is the maximum allowed tax benefit and not the amount deducted each year (e.g. in the context of tax credit, the maximum allowed tax credit shall be published rather than the actual amount which might depend on the taxable revenues and vary each year).

(****) This information shall be published within six months from the date of granting (or, for aid in the form of tax advantage, within 1 year from the date the tax declaration is due). In case of unlawful aid, EFTA States will be required to ensure the publication of this information *ex post*, at least within six months from the date of the Authority decision. The information should be available in a format which allows data to be searched, extracted, and easily published on the internet, for instance in CSV or XML format.

(*****) Publication of information on aid awards granted before 1 July 2016, and for fiscal aid, publication for aid claimed or granted before 1 July 2016, will not be required.

Article 3

1. This Decision modifies the Guidelines on regional State aid for 2014-2020 and monitoring conditions imposed on regional State aid schemes, as follows:

- paragraph 169, of the Guidelines on regional State aid for 2014-2020, including a monitoring condition, is deleted,
- Annex IV, of the Guidelines on regional State aid for 2014-2020, is deleted.

⁽¹⁾ Not yet published in the OJ. Available at: <http://www.eftasurv.int/media/state-aid-guidelines/Part-III—Guidelines-on-regional-State-Aid-for-2014-2020.pdf>

⁽²⁾ Not yet published in the OJ. Available at: http://www.eftasurv.int/media/state-aid-guidelines/Part_IV_-_State_aid_for_films_and_other_audiovisual_works.pdf

⁽³⁾ Not yet published in the OJ. Available at: <http://www.eftasurv.int/media/state-aid-guidelines/Part-IV—Aviation-Guidelines.pdf>

2. For those regional State aid schemes already approved in line with the Guidelines on regional State aid for 2014-2020, including the monitoring condition laid down in paragraph 169 of the aforementioned Guidelines, the monitoring condition is waived. Accordingly, paragraph 65 of the Decision 225/14/COL, dated 18 June 2014, on regionally differentiated social security contributions 2014-2020, is deleted.

Article 4

This Decision modifies the Guidelines on State aid to promote risk finance investments ⁽¹⁾ as follows:

— in paragraph 166(v):

for: 'Such a requirement can be waived with respect to SMEs which have not carried out any commercial sale in any market and for investments below EUR 200 000 into a final beneficiary undertaking.'

read: 'Such a requirement can be waived with respect to SMEs which have not carried out any commercial sale in any market and for investments below EUR 500 000 into a final beneficiary undertaking',

— in paragraph 166(vi):

for: 'the amount of the fiscal advantage received, where the latter exceeds EUR 200 000. Such amount can be provided in ranges of EUR 2 million.'

read: 'the amount of the fiscal advantage received, where the latter exceeds EUR 500 000. Such amount can be provided in the following ranges (in EUR million): (0,5-1); (1-2); (2-5); (5-10); (10-30); (30 and more).',

— and at the end of paragraph 166, the following text is inserted:

'EFTA States will not be required to provide the abovementioned information before 1 July 2016 (*).

(*) Publication of information on aid awards granted before 1 July 2016, and for fiscal aid, publication for aid claimed or granted before 1 July 2016, will not be required.'

Article 5

This Decision inserts the following text:

'In the case of aid schemes excluded from the scope of a block exemption Regulation exclusively on the ground of their large budget, the Authority will assess their compatibility solely on the basis of the evaluation plan.'

— at the end of paragraph 49, of the Guidelines for the application of State aid rules in relation to rapid deployment of broadband network,

— at the end of paragraph 138, of the Guidelines on regional State aid for 2014-2020,

— at the end of paragraph 167, of the of the Guidelines on State aid to airports and airlines,

— at the end of paragraph 172, of the Guidelines on State aid to promote risk finance investments.

Article 6

Only the English version is authentic.

Done at Brussels, 16 July 2014.

For the EFTA Surveillance Authority

Oda Helen SLETNES

President

Helga JÓNSDÓTTIR

College Member

⁽¹⁾ Not yet published in the OJ. Available at [http://www.eftasurv.int/media/state-aid-guidelines/Part-III—State%20aid-to-promote-risk-finance-investments-\(Applicable-from-1-July-2014\).pdf](http://www.eftasurv.int/media/state-aid-guidelines/Part-III—State%20aid-to-promote-risk-finance-investments-(Applicable-from-1-July-2014).pdf)