Commission Regulation (EU) 2020/1474 of 13 October 2020 amending Regulation (EU) No 360/2012 as regards the prolongation of its period of application and a time-bound derogation for undertakings in difficulty to take into account the impact of the COVID-19 pandemic (Text with EEA relevance)

COMMISSION REGULATION (EU) 2020/1474

of 13 October 2020

amending Regulation (EU) No 360/2012 as regards the prolongation of its period of application and a time-bound derogation for undertakings in difficulty to take into account the impact of the COVID-19 pandemic

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid[(1)], and in particular Article 2(1) thereof,

After consulting the Advisory Committee on State Aid,

Whereas:

(1) Under Commission Regulation (EU) No 360/2012[(2)], aid below a certain threshold granted to undertakings for the provision of a service of general economic interest is deemed not to meet all the criteria of Article 107(1) of the Treaty and is therefore exempt from the notification requirement of Article 108(3) of the Treaty, subject to certain conditions.

(2) Regulation (EU) No 360/2012 will expire on 31 December 2020.

(3) It is necessary to provide predictability and legal certainty, while preparing for a possible future update of Regulation (EU) No 360/2012, aligned with a possible future update of Commission Regulation (EU) No 1407/2013[(3)].

(4) Therefore, first, the period of application of Regulation (EU) No 360/2012 should be extended. Second, in line with the Commission's Better Regulation Guidelines, Regulation (EU) No 360/2012 and the other SGEI rules laid down in the Commission Decision of 20 December 2011[(4)], in the Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest[(5)] and in the Communication from the Commission – European Union framework for State aid in the form of public service compensation (2011)[(6)], insofar as they apply to health and social services, should be evaluated. The Commission launched the evaluation of these rules already in June 2019. The prolongation of Regulation (EU) No 360/2012 should enable the Commission to take into account the results of the Fitness Check which also covers Regulation

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) 2020/1474. (See end of Document for details)*

(EU) No 1407/2013. Therefore the duration of the prolongation of Regulation (EU) No 360/2012 should be aligned with the duration of the prolongation of Regulation (EU) No 1407/2013. This prolongation should allow the Commission to get a more complete picture of how the different elements of the two regulations work together. The prolongation being limited in time should contribute to providing legal certainty to undertakings entrusted with an SGEI and should not lead to an increase of the administrative burden as compensation measures which do not exceed EUR 500 000 over any period of three fiscal years granted to undertakings providing an SGEI will continue to be deemed as not constituting State aid.

(5) Therefore, the period of application of Regulation (EU) No 360/2012 should be extended by three years, until 31 December 2023.

(6) In view of the economic and financial consequences that the COVID-19 outbreak has on undertakings and in order to ensure consistency with the general policy response adopted by the Commission, especially in the period 2020-2021, it is necessary that undertakings which became undertakings in difficulty as a consequence of the COVID-19 outbreak should remain eligible under Regulation (EU) No 360/2012 for a limited period of time.

(7) Regulation (EU) No 360/2012 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 360/2012 is amended as follows:

(a) in Article 1 the following paragraph 2a is inserted:

2a. By derogation from point (h) of paragraph 2, this Regulation shall apply to undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty in the period from 1 January 2020 to 30 June 2021.;

(b) in Article 5, the second paragraph is replaced by the following:

It shall apply until 31 December 2023.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 October 2020.

For the Commission

The President

Ursula VON DER LEYEN