Commission Regulation (EU) 2020/972 of 2 July 2020 amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments (Text with EEA relevance)

COMMISSION REGULATION (EU) 2020/972

of 2 July 2020

amending Regulation (EU) No 1407/2013 as regards its prolongation and amending Regulation (EU) No 651/2014 as regards its prolongation and relevant adjustments

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 108(4) thereof,

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 points (a) and (b) of Article 1(1) and Article 2 thereof,

After consulting the Advisory Committee on State Aid,

Whereas:

(1) A number of the State aid rules adopted as part of the 2012 'State Aid Modernisation' initiative are due to expire by the end of 2020. In particular, Commission Regulations (EU) No 1407/2013[(2)] and (EU) No 651/2014[(3)] will expire on 31 December 2020.

(2) To provide predictability and legal certainty, while preparing for a possible future update of the State aid rules adopted as part of the State Aid Modernisation initiative, the Commission should take action in two phases.

(3) First, the Commission should extend the period of application of State aid rules which would otherwise expire by end 2020. Second, in line with the Commission's *Better Regulation Guidelines*[(4)], the Commission should evaluate those rules together with the other State aid rules, which were adopted as part of the State Aid Modernisation initiative. The Commission launched the evaluation of those rules on 7 January 2019 in the form of a '*fitness check*'. In the context of the European Green Deal[(5)] and the European Digital Agenda, the Commission has already announced its intention to revise a series of guidelines by the end of 2021. On that basis, the Commission will decide whether to further prolong or update the rules.

(4) Considering the broad scope of the fitness check and the fact that the results of the evaluations will not be available before late 2020, a policy decision on the design of the State aid rules post 2020 cannot be taken in time to ensure legal certainty and stability for the stakeholders as regards the applicable rules post 2020. A prolongation is therefore

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) 2020/972. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

necessary to allow a proper assessment of the State aid rules and ensure predictability and stability of those rules for the Member States.

(5) Therefore, the period of application of Regulations (EU) No 1407/2013 and (EU) No 651/2014 should be extended by three years until 31 December 2023.

(6) Regulations (EU) No 1407/2013 and (EU) No 651/2014 should therefore be amended accordingly.

(7) As a consequence of the extension of the period of application of Regulation (EU) No 651/2014, some Member States may wish to extend the validity of aid measures exempted under that Regulation and about which summary information has been provided in accordance with point (a) of Article 11 of that Regulation. In order to provide transparency, Member States should communicate to the Commission the updated summary information regarding the extension of those measures.

(8) Schemes set up under Sections 1 (with the exception of Article 15), 2, 3, 4, 7 (with the exception of Article 44) and 10 of Chapter III of Regulation (EU) No 651/2014, having an average annual State aid budget exceeding EUR 150 million, which have been exempted for longer than six months pursuant to a decision by the Commission and which the respective Member State wishes to extend for the period after 31 December 2020, should continue to be exempted until 31 December 2023, provided Member States have provided the Commission with the updated summary information and have submitted a final evaluation report in line with the evaluation plan approved by the Commission.

(9) 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, Regulation (EU) No 651/2014 should be amended accordingly. In particular, undertakings which became undertakings in difficulty as a consequence of the COVID-19 outbreak should remain eligible under Regulation (EU) No 651/2014 for a limited period of time. Likewise, undertakings, which have to temporarily or permanently lay off staff due to the COVID-19 outbreak, should not be deemed to have breached relocation commitments given before 31 December 2019 at the time of receiving regional aid. Those exceptional provisions should apply for a limited period from 1 January 2020 to 30 June 2021.

(10) Regulations (EU) No 1407/2013 and (EU) No 651/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 8 of Regulation (EU) No 1407/2013, the second paragraph is replaced by the following:

It shall apply until 31 December 2023.

Article 2

Regulation (EU) No 651/2014 is amended as follows:

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(1) Article 1 is amended as follows:

(1) in paragraph 2, point (a) is replaced by the following:

(a) schemes under Sections 1 (with the exception of Article 15), 2, 3, 4, 7 (with the exception of Article 44), and 10 of Chapter III of this Regulation, if the average annual State aid budget exceeds EUR 150 million, from six months after their entry into force. The Commission may decide that this Regulation shall continue to apply for a longer period to any of those aid schemes after having assessed the relevant evaluation plan notified by the Member State to the Commission, within 20 working days from the scheme's entry into force. Where the Commission has already extended the application of this Regulation beyond the initial six months as regards such schemes, Member States may decide to extend those schemes until the end of the period of application of this Regulation, provided that the Member State concerned has submitted an evaluation report in line with the evaluation plan approved by the Commission. However, regional aid granted under this Regulation may be extended, by derogation, until the end of the period of validity of the relevant regional aid maps;;

(2) in paragraph 4, point (c) is replaced by the following:

(c) aid to undertakings in difficulty, with the exception of aid schemes to make good the damage caused by certain natural disasters, start-up aid schemes and regional operating aid schemes, provided those schemes do not treat undertakings in difficulty more favourably than other undertakings. However, this Regulation shall apply by derogation 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.;

(2) in Article 2, point (27) is replaced by the following:

(27) "assisted areas" means areas designated in an approved regional aid map approved in application of Articles2020-2021, 107(3)(a) and (c) of the Treaty for the period from 1 July 2014 to 31 December 2021 for regional aid granted until 31 December 2021 and areas designated in an approved regional aid map approved in application of Articles 107(3)(a) and (c) of the Treaty for the period from 1 January 2022 to 31 December 2027 for regional aid granted after 31 December 2021;;

(3) Article 11 is replaced by the following:

Article 11

Reporting

1 Member States, or alternatively, in the case of aid granted to European Territorial Cooperation projects, the Member State in which the managing authority, referred to in Article 21 of Regulation (EU) No 1299/2013, is located, shall transmit to the Commission: