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COMMISSION REGULATION (EU) No 717/2014

of 27 June 2014

on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector

(OJ L 190, 28.6.2014, p. 45)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Commission Regulation (EU) 2020/2008 of 8 December 2020	L 414	15	9.12.2020
► <u>M2</u>	Commission Regulation (EU) 2022/2514 of 14 December 2022	L 326	8	21.12.2022

**COMMISSION REGULATION (EU) No 717/2014****of 27 June 2014****on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector***Article 1***Scope**

1. This Regulation applies to aid granted to undertakings in the fishery and aquaculture sector, with the exception of:

- (a) aid the amount of which is fixed on the basis of price or quantity of products purchased or put on the market;
- (b) aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity;
- (c) aid contingent upon the use of domestic over imported goods;
- (d) aid for the purchase of fishing vessels;
- (e) aid for the modernisation or replacement of main or ancillary engines of fishing vessels;
- (f) aid to operations increasing the fishing capacity of a vessel or equipment increasing the ability of a vessel to find fish;
- (g) aid for the construction of new fishing vessels or importation of fishing vessels;
- (h) aid to the temporary or permanent cessation of fishing activities unless specifically provided for in the Regulation (EU) No 508/2014;
- (i) aid to exploratory fishing;
- (j) aid to the transfer of ownership of a business;
- (k) aid to direct restocking, unless explicitly provided for as a conservation measure by a Union legal act or in the case of experimental restocking.

2. Where an undertaking is active in the fishery and aquaculture sector and is also active in one or more of the sectors or has other activities falling within the scope of Regulation (EU) No 1407/2013, that Regulation shall apply to aid granted in respect of the latter sectors or activities, provided that the Member State concerned ensures, by

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appropriate means such as separation of activities or distinction of costs, that the activities in the fishery and aquaculture sector do not benefit from the *de minimis* aid granted in accordance with that Regulation.

3. Where an undertaking is active in the fishery and aquaculture sector as well as in the primary production of agricultural products falling within the scope of Commission Regulation (EU) No 1408/2013 ⁽¹⁾, this Regulation shall apply to aid granted in respect of the former sector provided that the Member State concerned ensures, by appropriate means such as separation of activities or distinction of costs, that the primary production of agricultural products does not benefit from *de minimis* aid granted in accordance with this Regulation.

*Article 2***Definitions**

1. For the purposes of this Regulation the following definitions shall apply:

- (a) ‘undertakings in the fishery and aquaculture sector’ means undertakings active in the production, processing and marketing of fishery and aquaculture products;
- (b) ‘fishery and aquaculture products’ means the products defined in Article 5 (a) and (b) of Regulation (EU) No 1379/2013;
- (c) ‘processing and marketing’ means all operations, including handling, treatment, production and distribution, performed between the time of landing or harvesting and the end-product stage.

2. ‘Single undertaking’ includes, for the purposes of this Regulation, all enterprises having at least one of the following relationships with each other:

- (a) one enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
- (b) one enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
- (c) one enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;

⁽¹⁾ Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in agriculture sector (OJ L 352, 24.12.2013, p. 9).

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- (d) one enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

Enterprises having any of the relationships referred to in points (a) to (d) of the first subparagraph through one or more other enterprises shall also be considered to be a single undertaking.

*Article 3****De minimis aid***

1. Aid measures shall be deemed not to meet all the criteria in Article 107(1) of the Treaty, and shall therefore be exempt from the notification requirement in Article 108(3) of the Treaty, if they fulfil the conditions laid down in this Regulation.

2. The total amount of *de minimis* aid granted per Member State to a single undertaking in the fishery and aquaculture sector shall not exceed EUR 30 000 over any period of three fiscal years.

3. The cumulative amount of *de minimis* aid granted per Member State to undertakings active in the fishery and aquaculture sector over any period of three fiscal years shall not exceed the national cap set out in the Annex.

4. *De minimis* aid shall be deemed granted at the moment the legal right to receive the aid is conferred on the undertaking under the applicable national legal regime irrespective of the date of payment of the *de minimis* aid to the undertaking.

5. The ceiling laid down in paragraph 2 and the national cap referred to in paragraph 3 shall apply irrespective of the form of the *de minimis* aid or the objective pursued and regardless of whether the aid granted by the Member State is financed entirely or partly by resources of Union origin. The period of three fiscal years shall be determined by reference to the fiscal years used by the undertaking in the Member State concerned.

6. For the purposes of the ceiling laid down in paragraph 2 and the national cap referred to in paragraph 3, aid shall be expressed as a cash grant. All figures used shall be gross, that is, before any deduction of tax or other charge. Where aid is granted in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid.

Aid payable in several instalments shall be discounted to its value at the moment it is granted. The interest rate to be used for discounting purposes shall be the discount rate applicable at the time the aid is granted.

7. Where the ceiling laid down in paragraph 2 or the national cap referred to in paragraph 3 would be exceeded by the grant of new *de minimis* aid, none of that new aid may benefit from this Regulation.

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8. In the case of mergers or acquisitions, all prior *de minimis* aid granted to any of the merging undertakings shall be taken into account in determining whether any new *de minimis* aid to the new or the acquiring undertaking exceeds the ceiling or the national cap. *De minimis* aid lawfully granted before the merger or acquisition shall remain lawful.

9. If one undertaking splits into two or more separate undertakings, *de minimis* aid granted prior to the split shall be allocated to the undertaking that benefited from it, which is in principle the undertaking taking over the activities for which the *de minimis* aid was used. If such an allocation is not possible, the *de minimis* aid shall be allocated proportionately on the basis of the book value of the equity capital of the new undertakings at the effective date of the split.

*Article 4***Calculation of gross grant equivalent**

1. This Regulation shall apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent of the aid *ex ante* without any need to undertake a risk assessment ('transparent aid').

2. Aid comprised in grants or interest rate subsidies shall be considered as transparent *de minimis* aid.

3. Aid comprised in loans shall be considered as transparent *de minimis* aid if:

(a) the beneficiary is not subject to collective insolvency proceedings nor fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors. In case of large undertakings, the beneficiary shall be in a situation comparable to a credit rating of at least B-; and

(b) the loan is secured by collateral covering at least 50 % of the loan and the loan amounts to either EUR 150 000 over five years or EUR 75 000 over 10 years; if a loan is for less than those amounts and/or is granted for a period of less than five or 10 years respectively, the gross grant equivalent of that loan shall be calculated as a corresponding proportion of the ceiling laid down in Article 3(2); or

(c) the gross grant equivalent has been calculated on the basis of the reference rate applicable at the time of the grant.

4. Aid comprised in capital injections shall only be considered as transparent *de minimis* aid if the total amount of the public injection does not exceed the *de minimis* ceiling laid down in Article 3(2).

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5. Aid comprised in risk finance measures taking the form of equity or quasi-equity investments shall only be considered as transparent *de minimis* aid if the capital provided to a single undertaking does not exceed the *de minimis* ceiling laid down in Article 3(2).

6. Aid comprised in guarantees shall be treated as transparent *de minimis* aid if:

- (a) the beneficiary is not subject to collective insolvency proceedings nor fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors. In case of large undertakings, the beneficiary shall be in a situation comparable to a credit rating of at least B-; and
- (b) the guarantee does not exceed 80 % of the underlying loan and either the amount guaranteed does not exceed EUR 225 000 and the duration of the guarantee is five years or the amount guaranteed does not exceed EUR 112 500 and the duration of the guarantee is 10 years; if the amount guaranteed is lower than these amounts and/or the guarantee is for a period of less than five or 10 years respectively, the gross grant equivalent of that guarantee shall be calculated as a corresponding proportion of the ceiling laid down in Article 3(2); or
- (c) the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down in a Commission notice; or
- (d) before implementation:
 - (i) the methodology used to calculate the gross grant equivalent of the guarantee has been notified to the Commission under another Commission Regulation in the State aid area applicable at that time and accepted by the Commission as being in line with the Guarantee Notice, or any successor Notice, and
 - (ii) that methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of this Regulation.

7. Aid comprised in other instruments shall be considered as transparent *de minimis* aid if the instrument provides for a cap ensuring that the relevant ceiling is not exceeded.

Article 5

Cumulation

1. Where an undertaking is active in the fishery and aquaculture sector and is also active in one or more of the sectors or has other activities falling within the scope of Regulation (EU) No 1407/2013, *de minimis* aid granted for activities in the fishery and aquaculture sector in accordance with this Regulation may be cumulated with *de minimis* aid granted in respect of the latter sector(s) or activities up to the relevant ceiling laid down in Article 3(2) of Regulation (EU) No 1407/2013,

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provided that the Member State concerned ensures, by appropriate means such as separation of activities or distinction of costs, that the activities in the fishery and aquaculture sector do not benefit from *de minimis* aid granted in accordance with Regulation (EU) No 1407/2013.

2. Where an undertaking is active in the fishery and aquaculture sector as well as in the primary production of agricultural products, *de minimis* aid granted in accordance with Regulation (EU) No 1408/2013 may be cumulated with *de minimis* aid in the fishery and aquaculture sector in accordance with this Regulation up to the ceiling laid down in this Regulation, provided that the Member State concerned ensures, by appropriate means such as separation of activities or distinction of costs, that the primary production of agricultural products does not benefit from *de minimis* aid granted in accordance with this Regulation.

3. *De minimis* aid shall not be cumulated with State aid in relation to the same eligible costs or with State aid for the same risk finance measure, if such cumulation would exceed the highest relevant aid intensity or aid amount fixed in the specific circumstances of each case by a block exemption regulation or a decision adopted by the Commission. *De minimis* aid which is not granted for or attributable to specific eligible costs may be cumulated with other State aid granted under a block exemption regulation or a decision adopted by the Commission.

*Article 6***Monitoring**

1. Where a Member State intends to grant *de minimis* aid in accordance with this Regulation to an undertaking, it shall inform that undertaking in writing of the prospective amount of the aid expressed as a gross grant equivalent and of its *de minimis* character, making express reference to this Regulation and citing its title and publication reference in the *Official Journal of the European Union*. Where *de minimis* aid is granted in accordance with this Regulation to different undertakings on the basis of a scheme and different amounts of individual aid are granted to those undertakings under that scheme, the Member State concerned may choose to fulfil that obligation by informing the undertakings of a fixed sum corresponding to the maximum aid amount to be granted under that scheme. In such case, the fixed sum shall be used for determining whether the ceiling laid down in Article 3(2) is reached and the national cap referred to in Article 3(3) is not exceeded. Before granting the aid, the Member State shall obtain a declaration from the undertaking concerned, in written or electronic form, about any other *de minimis* aid received to which this Regulation or other *de minimis* regulations apply during the previous two fiscal years and the current fiscal year.

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2. Where a Member State has set up a central register of *de minimis* aid containing complete information on all *de minimis* aid granted by any authority within that Member State, paragraph 1 shall cease to apply from the moment the register covers a period of three fiscal years.

3. A Member State shall grant new *de minimis* aid in accordance with this Regulation only after having checked that this will not raise the total amount of *de minimis* aid granted to the undertaking concerned to a level above the ceiling laid down in Article 3(2) and the national cap referred to in Article 3(3) and that all the conditions laid down in this Regulation are complied with.

4. Member States shall record and compile all the information regarding the application of this Regulation. Such records shall contain all information necessary to demonstrate that the conditions of this Regulation have been complied with. Records regarding individual *de minimis* aid shall be maintained for 10 fiscal years from the date on which the aid was granted. Records regarding a *de minimis* aid scheme shall be maintained for 10 fiscal years from the date on which the last individual aid was granted under such a scheme.

5. On written request, the Member State concerned shall provide the Commission, within a period of 20 working days or such longer period as may be fixed in the request, with all the information that the Commission considers necessary for assessing whether the conditions of this Regulation have been complied with, and in particular the total amount of *de minimis* aid within the meaning of this Regulation and of other *de minimis* regulations received by any undertaking.

*Article 7***Transitional provisions**

1. This Regulation shall apply to aid granted before its entry into force if the aid fulfils all the conditions laid down in this Regulation. Any aid which does not fulfil those conditions will be assessed by the Commission in accordance with the relevant frameworks, guidelines, communications and notices.

2. Any individual *de minimis* aid which was granted between 1 January 2005 and 30 June 2008, and which fulfils the conditions of Regulation (EC) No 1860/2004 shall be deemed not to meet all the criteria in Article 107(1) of the Treaty and shall therefore be exempt from the notification requirement in Article 108(3) of the Treaty.

3. Any individual *de minimis aid* granted between 31 July 2007 and 30 June 2014 and which fulfils the conditions of Regulation (EC) No 875/2007 shall be deemed not to meet all the criteria in Article 107(1) of the Treaty and shall therefore be exempt from the notification requirement in Article 108(3) of the Treaty.

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4. At the end of the period of validity of this Regulation, any *de minimis* aid scheme which fulfils the conditions of this Regulation shall remain covered by this Regulation for a further period of six months.

Article 8

Entry into force and period of application

This Regulation shall enter into force on 1 July 2014.

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It shall apply until 31 December 2023.

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



ANNEX

National cap as referred to in Article 3(3)

(EUR)

Member State	Maximum cumulative amount of <i>de minimis</i> aid granted per Member State in the fishery and aquaculture sector
Belgium	11 240 000
Bulgaria	1 270 000
Czech Republic	3 020 000
Denmark	51 720 000
Germany	55 520 000
Estonia	3 930 000
Ireland	20 820 000
Greece	27 270 000
Spain	165 840 000
France	112 550 000
Croatia	6 260 000
Italy	96 310 000
Cyprus	1 090 000
Latvia	4 450 000
Lithuania	8 320 000
Luxembourg	0
Hungary	975 000
Malta	2 500 000
Netherlands	22 960 000
Austria	1 510 000
Poland	41 330 000
Portugal	29 200 000
Romania	2 460 000
Slovenia	990 000
Slovakia	860 000
Finland	7 450 000
Sweden	18 860 000
United Kingdom	114 780 000