

▼B**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 the agriculture sector

*Article 1***Scope**

1. This Regulation applies to aid granted to undertakings active in the primary production of agricultural products, with the exception of:

(a) aid the amount of which is fixed on the basis of the price or quantity of products put on the market;

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(b) aid to export-related activities towards third countries or Member States ⁽¹⁾, 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;

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(c) aid contingent upon the use of domestic over imported goods.

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2. Where an undertaking is active in the primary production of agricultural products and is also active in one or more of the sectors or has other activities falling within the scope of Regulation (EU) 2023/2831, that Regulation shall apply to aid granted in respect of the latter sectors or activities, 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 that Regulation.

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3. Where an undertaking is active in the primary production of agricultural products as well as in the primary production of fishery and aquaculture products, Commission Regulation (EU) No 717/2014 ⁽²⁾ shall apply to aid granted in respect of the latter 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 that Regulation.

⁽¹⁾ ► **M4** Since in accordance with the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (Withdrawal Agreement, OJ L 29, 31.1.2020, p. 7, ELI: http://data.europa.eu/eli/treaty/withd_2020/sign), and in particular Article 10 of the Windsor Framework and its Annex 5 (see Joint Declaration No 1/2023 of the Union and the United Kingdom in the Joint Committee established by the Withdrawal Agreement of 24 March 2023, OJ L 102, 17.4.2023, p. 87), certain provisions of Union law relating to State aid in respect of measures affecting the trade between Northern Ireland and the Union continue to apply to the United Kingdom, for the purposes of this Regulation, any reference to Member States shall be understood as including the United Kingdom in respect of Northern Ireland. ◀

⁽²⁾ 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).

▼B*Article 2***Definitions****▼M3**

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

- (a) ‘agricultural products’ means products listed in Annex I to the Treaty, with the exception of fishery and aquaculture products covered by Regulation (EU) No 1379/2013 of the European Parliament and of the Council ⁽¹⁾;
- (b) ‘primary production of fishery and aquaculture products’ means all operations relating to the fishing, rearing or cultivation of aquatic organisms, as well as on-farm or on-board activities necessary for preparing an animal or plant for the first sale, including cutting, filleting or freezing, and the first sale to resellers or processors.

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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;
- (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.

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⁽¹⁾ Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1).

▼ **M4***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 shall not exceed EUR 50 000 over any period of 3 years.
3. The cumulative amount of *de minimis* aid granted per Member State to undertakings active in the primary production of agricultural products over any period of 3 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 *de minimis* ceiling and the national cap referred to in paragraphs 2 and 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.
6. For the purposes of the *de minimis* ceiling and the national cap referred to in paragraphs 2 and 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.
7. 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.
8. Where the *de minimis* ceiling or the national cap referred to in paragraphs 2 and 3 would be exceeded by the grant of new *de minimis* aid, none of that new aid may benefit from this Regulation.
9. 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 relevant *de minimis* ceiling or the relevant national cap. *De minimis* aid lawfully granted before the merger or acquisition shall remain lawful.

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10. 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.

▼B*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

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(b) the loan is secured by collateral covering at least 50 % of the loan and the loan amounts to either EUR 250 000 over 5 years or EUR 125 000 over 10 years; if a loan is for less than those amounts and/or if it is granted for a period of less than 5 or 10 years respectively, the gross grant equivalent of that loan shall be calculated as a corresponding proportion of the *de minimis* ceiling laid down in Article 3(2); or

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

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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 relevant *de minimis* ceiling.

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 relevant *de minimis* ceiling.

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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

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- (b) the guarantee does not exceed 80 % of the underlying loan and either the amount guaranteed is EUR 375 000 and the duration of the guarantee is 5 years or the amount guaranteed is EUR 187 500 and the duration of the guarantee is 10 years; if the amount guaranteed is lower than these amounts and/or if the guarantee is for a period of less than 5 or 10 years respectively, the gross grant equivalent of that guarantee shall be calculated as a corresponding proportion of the *de minimis* ceilings laid down in Article 3(2); or

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- (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****▼M4**

1. Where an undertaking is active in the primary production of agricultural products and is also active in one or more of the sectors or has other activities falling within the scope of Commission Regulation (EU) 2023/2831⁽¹⁾, *de minimis* aid granted for activities in the sector of agricultural production 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) 2023/2831, provided that the Member State concerned ensures, by appropriate means, that the primary production of agricultural products does not benefit from *de minimis* aid granted in accordance with Regulation (EU) 2023/2831.

⁽¹⁾ Commission Regulation (EU) 2023/2831 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L, 2023/2831, 15.12.2023, ELI: <http://data.europa.eu/eli/reg/2023/2831/oj>).

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2. Where an undertaking is active in the primary production of agricultural products as well as in the primary production of fishery and aquaculture products, *de minimis* aid granted for activities in the sector of agricultural production in accordance with this Regulation may be cumulated with *de minimis* aid for activities in the fishery and aquaculture sector in accordance with Regulation (EU) No 717/2014 up to the highest ceiling laid down in either of those Regulations, provided that the Member State concerned ensures, by appropriate means, that the primary production of agricultural products does not benefit from *de minimis* aid granted in accordance with Regulation (EU) No 717/2014.

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2a. *De minimis* aid granted in accordance with this Regulation may be cumulated with *de minimis* aid granted in accordance with Commission Regulation (EU) 2023/2832 ⁽¹⁾.

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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.

▼ M4*Article 6***Monitoring and reporting**

1. Member States shall ensure that, from 1 January 2027, information on *de minimis* aid granted is registered in a central register at national or Union level. Information in the central register shall contain the identification of the beneficiary, the aid amount, the granting date, the granting authority, the aid instrument and the sector involved on the basis of the statistical classification of economic activities in the Union ('NACE classification'). The central register shall be set up in such a way as to enable easy public access to the information whilst ensuring compliance with the Union rules on data protection, including through the pseudonymisation of specific entries where necessary.

2. Member States shall register the information listed in paragraph 1 in the central register on *de minimis* aid granted by any authority within the Member State concerned within 20 working days following the grant of the aid. Member States shall take appropriate measures to ensure the accuracy of the data contained in the central register.

⁽¹⁾ Commission Regulation (EU) 2023/2832 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest (OJ L, 2023/2832, 15.12.2023, ELI: <http://data.europa.eu/eli/reg/2023/2832/oj>).

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3. Member States shall keep records of the registered information on *de minimis* aid for 10 years from the date on which the aid was granted.

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

5. Member States using a central register at national level shall submit to the Commission by 30 June every year aggregated data on *de minimis* aid granted for the previous year. The aggregated data shall contain the number of beneficiaries, the overall amount of *de minimis* aid granted and the overall amount of *de minimis* aid granted per sector (using the ‘NACE classification’). The first data submission shall be for *de minimis* aid granted from 1 January to 31 December 2027. Member States may report to the Commission on earlier periods where the aggregated data are available.

6. On written request by the Commission, the Member State concerned shall provide the Commission, within 20 working days or a longer period set out 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.

▼B*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 1 January 2008 and 30 June 2014 and which fulfils the conditions of Regulation (EC) No 1535/2007, 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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3a. Any individual *de minimis* aid granted between 1 January 2014 and 16 December 2024 in accordance with the provisions of this Regulation as applicable at the time of granting the aid 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 6 months.

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5. Until the central register is set up and covers a period of 3 years, where a Member State intends to grant *de minimis* aid to an undertaking in accordance with this Regulation, that Member State shall inform the undertaking in written or electronic form of the amount of the aid expressed as a gross grant equivalent and its *de minimis* character, referring directly to this Regulation. Where *de minimis* aid is granted to different undertakings in accordance with this Regulation 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 its obligation by informing the undertakings of an amount corresponding to the maximum aid amount to be granted under that scheme. In such cases, the fixed sum shall be used for determining whether the ceiling laid down in Article 3(2) is complied with. 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 over any period of 3 years.

▼ B*Article 8***Entry into force and period of application**

This Regulation shall enter into force on 1 January 2014.

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It shall apply until 31 December 2032.

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

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ANNEX

Maximum cumulative amounts of *de minimis* aid granted per Member State to undertakings active in the primary production of agricultural products referred to in Article 3(3)

Member State	Maximum amounts of <i>de minimis</i> aid ⁽¹⁾ (in million EUR)
Belgium	226,23
Bulgaria	113,84
Czechia	141,28
Denmark	260,65
Germany	1 415,42
Estonia	26,97
Ireland	227,86
Greece	264,88
Spain	1 220,06
France	1 820,07
Croatia	59,25
Italy	1 375,67
Cyprus	16,45
Latvia	38,45
Lithuania	81,70
Luxembourg	11,28
Hungary	199,62
Malta	2,70
Netherlands	680,95
Austria	195,56
Poland	682,85
Portugal	214,27
Romania	447,18
Slovenia	30,11
Slovakia	56,89
Finland	99,45
Sweden	148,40
▼ M5 United Kingdom in respect of Northern Ireland	65,37
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⁽¹⁾ The maximum amounts shall be calculated as 2 % of the average of the three highest values of annual agricultural production of each Member State in the period 2012-2023.