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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
► <b><u>M1</u></b>	Commission Regulation (EU) 2020/2008 of 8 December 2020	L 414	15	9.12.2020
► <b><u>M2</u></b>	Commission Regulation (EU) 2022/2514 of 14 December 2022	L 326	8	21.12.2022
► <b><u>M3</u></b>	Commission Regulation (EU) 2023/2391 of 4 October 2023	L 2391	1	5.10.2023

**▼B****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****▼M3***Article 1***Scope**

1. This Regulation applies to aid granted to undertakings active in the primary production of fishery and aquaculture products, with the following exceptions:

- (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 granted 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 fishing vessel or equipment increasing the ability of a fishing vessel to find fish;
- (g) aid for the construction of new fishing vessels or importation of fishing vessels;
- (h) aid to the permanent or temporary cessation of fishing activities with the exception of aid that meets the conditions laid down in Articles 20 and 21 of Regulation (EU) 2021/1139 of the European Parliament and of the Council <sup>(1)</sup>;
- (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.

<sup>(1)</sup> Regulation (EU) 2021/1139 of the European Parliament and of the Council of 7 July 2021 establishing the European Maritime, Fisheries and Aquaculture Fund and amending Regulation (EU) 2017/1004 (OJ L 247, 13.7.2021, p. 1).

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2. Where an undertaking is active in the primary production of fishery and aquaculture products and is also active in one or more of the sectors or has other activities falling within the scope of Commission Regulation (EU) No 1407/2013 <sup>(1)</sup> that Regulation shall apply to aid granted in respect of the latter sector or 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 fishery and aquaculture products does not benefit from the *de minimis* aid granted in accordance with that Regulation.

3. Where an undertaking is active in the primary production of fishery and aquaculture products as well as in the primary production of agricultural products falling within the scope of Commission Regulation (EU) No 1408/2013 <sup>(2)</sup>, 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.

4. For the purposes of the application of this Regulation, points (d) to (g) of paragraph 1 shall not apply to undertakings located in the Union's outermost regions referred to in Article 349 of the Treaty in respect of vessels of an overall length of less than 12 metres.

**▼ B***Article 2***Definitions**

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

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(a) 'fishery and aquaculture products' means the products defined in Article 5, points (a) and (b), of Regulation (EU) No 1379/2013 of the European Parliament and of the Council <sup>(3)</sup>;

(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

<sup>(1)</sup> Commission Regulation (EU) No 1407/2013 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 (OJ L 352, 24.12.2013, p. 1).

<sup>(2)</sup> 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).

<sup>(3)</sup> 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).

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for preparing an animal or plant for the first sale, including cutting, filleting or freezing, and the first sale to resellers or processors;

- (c) ‘processing and marketing of fishery and aquaculture products’ means all operations, including handling, treatment and transformation, performed following the time of landing – or harvesting in case of aquaculture – that result in a processed product, as well as distribution thereof;
- (d) ‘undertakings located in the Union’s outermost regions referred to in Article 349 of the Treaty’ means undertakings that have their main place of registration in an outermost region referred to in Article 349 of the Treaty and are active in that region.

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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.

*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.

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

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2a. By way of derogation from paragraph 2, a Member State may decide that the total amount of *de minimis* aid granted to a single undertaking shall not exceed EUR 40 000 over any period of three fiscal years, provided that the Member State has in place a national central register in accordance with Article 6(2).

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

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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.

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5. The *de minimis* ceilings laid down in paragraphs 2 and 2a and the national cap set out in the Annex shall apply irrespective of the form of the *de minimis* aid or the objective pursued by it and irrespective 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 *de minimis* ceilings laid down in paragraphs 2 and 2a and the national cap set out in the Annex, aid shall be expressed as a cash grant. All figures used shall be gross, that is to say 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 *de minimis* ceilings laid down in paragraphs 2 and 2a or the national cap set out in the Annex would be exceeded by the grant of new *de minimis* aid, that new aid shall not benefit from this Regulation.

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 relevant *de minimis* ceiling or the national cap. *De minimis* aid lawfully granted before the merger or acquisition shall remain lawful.

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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

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(b) for measures in accordance with Article 3(2), the loan is secured by collateral covering at least 50 % of the loan and the loan amounts to either EUR 150 000 over 5 years or EUR 75 000 over 10 years, or, for measures in accordance with Article 3(2a), the loan is secured by collateral covering at least 50 % of the loan and the loan amounts to either EUR 200 000 over 5 years or EUR 100 000 over 10 years; if a loan is for less than those amounts or 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* ceilings laid down in Article 3(2) or (2a); 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 of 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 of 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) for measures in accordance with Article 3(2), 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 5 years or the amount guaranteed does not exceed EUR 112 500 and the duration of the guarantee is 10 years, or, for measures in accordance with Article 3(2a), the guarantee does not exceed 80 % of the underlying loan and either the amount guaranteed does not exceed EUR 300 000 and the duration of the guarantee is 5 years or the amount guaranteed does not exceed EUR 150 000 and the duration of the guarantee is 10 years; if the amount guaranteed is lower than those amounts or 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 (2a); 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****▼M3**

1. Where an undertaking is active in the primary production of fishery and aquaculture products 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 primary

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production of fishery and aquaculture products in accordance with this Regulation may be cumulated with *de minimis* aid granted in respect of the latter sector or sectors or activities up to the relevant ceiling laid down in Article 3(2) of Regulation (EU) No 1407/2013, provided that the Member State concerned ensures, by appropriate means such as separation of activities or distinction of costs, that the primary production of fishery and aquaculture products does not benefit from *de minimis* aid granted in accordance with Regulation (EU) No 1407/2013.

2. Where an undertaking is active in the primary production of fishery and aquaculture products 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 primary production of fishery and aquaculture products in accordance with this Regulation up to the relevant 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.

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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.

*Article 6***Monitoring****▼ M3**

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 written or electronic form, 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. The fixed sum shall be used for determining whether the relevant *de minimis* ceiling is reached and the national cap set out in the Annex is not



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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.

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Where a Member State grants aid in accordance with Article 3(2a), it shall have in place 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 relevant *de minimis* ceilings laid down in Article 3(2) and (2a) and the national cap set out in the Annex and that all the conditions laid down in this Regulation are complied with.

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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.

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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.

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 2029.

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

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## ANNEX

**National cap referred to in Article 3(3)**

(EUR)

Member State	Maximum cumulative amounts of <i>de minimis</i> aid granted per Member State to undertakings active in the primary production of fishery and aquaculture products <sup>(1)</sup>
Belgium	4 496 000
Bulgaria	760 118
Czechia	1 208 000
Denmark	20 688 000
Germany	22 208 000
Estonia	1 572 000
Ireland	11 969 529
Greece	25 343 906
Spain	66 336 000
France	56 551 178
Croatia	6 372 370
Italy	38 524 000
Cyprus	1 324 372
Latvia	1 780 000
Lithuania	3 328 000
Luxembourg	0
Hungary	846 353
Malta	4 234 963
Netherlands	13 633 923
Austria	613 703
Poland	16 532 000
Portugal	11 786 313
Romania	1 443 731
Slovenia	396 000
Slovakia	344 000
Finland	3 149 148
Sweden	7 544 000
United Kingdom as regards Northern Ireland	1 206 336

<sup>(1)</sup> The maximum cumulative amounts of *de minimis* aid are based on a three-year average of the annual turnover of catching and aquaculture activities in each Member State, obtained by excluding the highest and lowest entries across the five-year period from 2014 to 2018. To ensure continuity in the planning and distribution of *de minimis* aid to the primary production of fishery and aquaculture products and a sufficient scope of action for all Member States, the Commission considers that no Member State is to lose more than 60 % of the maximum cumulative amount previously established by this Regulation.