



Brussels, XXX
[...] (2022) XXX draft

COMMISSION REGULATION (EU) .../...

of XXX

**amending Regulation (EU) No 717/2014 as regards its period of application and the
maximum cumulative amounts of *de minimis* aid**

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amending Regulation (EU) No 717/2014 as regards its period of application and the maximum cumulative amounts of *de minimis* aid

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 aid¹, and in particular Article 2(1) thereof,

After consulting the Advisory Committee on State Aid,

Whereas:

- (1) On 29 April 2019, the Commission launched an evaluation of the performance of the sectoral instruments applicable to State aid in the fishery and aquaculture sector since their adoption in 2014-2015, including Commission Regulation (EU) No 717/2014², with a view to amending or repealing them for the period 2023-2027. The preliminary results of that evaluation have shown that Regulation (EU) No 717/2014 remains a relevant, efficient and effective tool, particularly to allow Member States to quickly address short-term negative impacts resulting from unexpected events that could endanger the economic performance of viable operators and jeopardise jobs³. However, Regulation (EU) No 717/2014 should remain coherent and consistent with other rules relevant for the assessment of State aid in the fishery and aquaculture sector, in particular with Regulation (EU) 2021/1139 of the European Parliament and of the Council⁴.
- (2) Commission Regulation (EU) 2020/2008⁵ extended the period of application of Regulation (EU) No 717/2014 until 31 December 2022 to ensure that the Member States could continue granting small amounts of aid pending the adoption of Regulation (EU) 2021/1139.
- (3) The maximum cumulative amounts of *de minimis* aid granted per Member State to undertakings active in the fishery and aquaculture sector over any period of three fiscal years referred to in Article 3(3) of Regulation (EU) No 717/2014 should be updated with more recent sectoral data. In particular, the maximum cumulative amounts should

¹ OJ L 248, 24.9.2015, p. 1.

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).

³ **[PENDING]**

⁴ 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).

⁵ Commission Regulation (EU) 2020/2008 of 8 December 2020 amending Regulations (EU) No 702/2014, (EU) No 717/2014 and (EU) No 1388/2014, as regards their period of application and other relevant adjustments (OJ L 414, 9.12.2020, p. 15).

be based on a three-year average of the annual turnover of catching, processing and aquaculture activities in each Member State, obtained by excluding the highest and lowest entries across a five-year period, i.e. 2014-2018.

- (4) Taking into account the increased need to use *de minimis* aid, it is appropriate to increase the maximum aid amount per single undertaking to EUR 40 000 subject to an additional condition. Presently, it is optional for Member States to use a national central register to verify that neither the *de minimis* individual ceiling, nor the national cap is exceeded. However, the use of a central register would become necessary in those Member States that opt for a higher individual ceiling. In light of the circumstances of the fishery and aquaculture sector, such an increase calls for a closer monitoring of the aid granted. Therefore, for such Member States the use of a central register should be made mandatory, in order to keep a record of all *de minimis* aid granted, so as to be able to verify that neither the individual ceiling, nor the national cap, are exceeded.
- (5) The criteria for calculating the gross grant equivalent for loans and guarantees should be adjusted according to the increased *de minimis* ceiling.
- (6) To ensure that the Member States may continue granting small amounts of aid in accordance with Regulation (EU) No 717/2014, and in order to ensure continuity and legal certainty, it is appropriate to make a number of adjustments to Regulation (EU) No 717/2014 as listed in Article 1 of the present act, to reflect the legal and economic developments in the fishery and aquaculture sector and to extend its period of application until 31 December 2029.
- (7) Regulation (EU) No 717/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 717/2014 is amended as follows:

- (1) in Article 1(1), point (h) is replaced by the following:
‘(h) aid to the temporary or permanent 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*;

* 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).’;

- (2) Article 3 is amended as follows:
 - (a) the following paragraph 2a is inserted:
‘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).’;
 - (b) paragraphs 5, 6 and 7 are replaced by the following:

‘5. The *de minimis* ceilings laid down in paragraphs 2 and 2a 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 *de minimis* ceilings laid down in paragraphs 2 and 2a and the national cap referred to in paragraph 3, aid shall be expressed as a cash grant. All figures used shall be 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. Where the *de minimis* ceilings laid down in paragraphs 2 and 2a 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.’

(3) Article 4 is amended as follows:

(a) in paragraph 3, point (b) is replaced by the following:

‘(b) for measures falling under 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 five years or EUR 75 000 over 10 years, or, for measures falling under 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 five years or EUR 100 000 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 *de minimis* ceilings laid down in Article 3(2) or (2a); or’;

(b) paragraphs 4 and 5 are replaced by the following:

(c) ‘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.

(d) 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.’;

(e) in paragraph 6, point (b) is replaced by the following:

‘(b) for measures falling under 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 five years or the amount guaranteed does not exceed EUR 112 500 and the duration of the guarantee is 10 years, or, for measures falling under 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 five 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 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 *de minimis* ceilings laid down in Article 3(2) or (2a); or’;

(4) Article 6 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘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. The fixed sum shall be used for determining whether the relevant *de minimis* ceiling 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.’;

(b) in paragraph 2, the following second subparagraph is added:

‘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.’;

(c) paragraph 3 is replaced by the following:

‘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 referred to in Article 3(3) and that all the conditions laid down in this Regulation are complied with.’;

(5) in Article 8, the second paragraph is replaced by the following:

‘It shall apply until 31 December 2029.’;

(6) the Annex is replaced by the text in the Annex to this Regulation.

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,

For the Commission
The President
Ursula von der Leyen



EUROPEAN
COMMISSION

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ANNEX 1

ANNEX

to the

COMMISSION REGULATION

**amending Regulation (EU) No 717/2014 as regards its period of application and the
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ANNEX 1
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 ⁽¹⁾
Belgium	24 540 750
Bulgaria	2 172 884
Czechia	3 842 769
Denmark	81 833 109
Germany	77 196 702
Estonia	4 243 567
Ireland	26 601 846
Greece	28 923 364
Spain	217 119 657
France	181 019 480
Croatia	8 681 955
Italy	118 166 895
Cyprus	998 928
Latvia	5 513 209
Lithuania	16 035 859
Luxembourg	0
Hungary	1 259 151
Malta	3 474 898
Netherlands	37 118 541
Austria	2 986 023
Poland	72 434 934
Portugal	43 197 046
Romania	4 237 681

Slovenia	956 681
Slovakia	2 071 578
Finland	12 384 203
Sweden	20 537 179
United Kingdom as regards Northern Ireland	4 377 695
<p>(¹) The maximum cumulative amounts of <i>de minimis</i> aid are based on a three-year average of the annual turnover of catching, processing and aquaculture activities in each Member State, obtained by excluding the highest and lowest entries across a five-year period, i.e. 2014-2018.’</p>	