
Status: Point in time view as at 16/12/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EU) No 1388/2014. (See end of Document for details)

Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union

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ANNEX I

SME DEFINITION

Article 1

Enterprise

An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

Article 2

Staff headcount and financial thresholds determining enterprise categories

1 The category of micro, small and medium-sized enterprises ('SMEs') is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.

2 Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.

3 Within the SME category, a micro-enterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

Article 3

Types of enterprise taken into consideration in calculating staff numbers and financial amounts

1 An 'autonomous enterprise' is any enterprise which is not classified as a partner enterprise within the meaning of paragraph 2 or as a linked enterprise within the meaning of paragraph 3.

2 'Partner enterprises' are all enterprises which are not classified as linked enterprises within the meaning of paragraph 3 and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of paragraph 3, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise).

3 'Linked enterprises' are enterprises which have any of the following relationships with each other:

4 Except in the cases set out in paragraph 2, second subparagraph, an enterprise cannot be considered an SME if 5 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.

5 Enterprises may make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the thresholds set out in Article 2.

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The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one enterprise or jointly by enterprises linked to one another. Such declarations are made without prejudice to the checks and investigations provided for by national or Union rules.

Article 4

Data used for the staff headcount and the financial amounts and reference period

1 The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis. They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax (VAT) and other indirect taxes.

2 Where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial thresholds stated in Article 2, this will not result in the loss or acquisition of the status of medium-sized, small or micro-enterprise unless those thresholds are exceeded over two consecutive accounting periods.

3 In the case of newly-established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.

Article 5

Staff headcount

The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of:

- (a) employees;
- (b) persons working for the enterprise being subordinated to it and deemed to be employees under national law;
- (c) owner-managers;
- (d) partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

Article 6

Establishing the data of an enterprise

1 In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the accounts of that enterprise.

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2 The data, including the headcount, of an enterprise having partner enterprises or linked enterprises are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in which the enterprise is included through consolidation.

3 For the application of paragraph 2, the data of the partner enterprises of the enterprise in question are derived from their accounts and their other data, consolidated if they exist. To these are added 100 % of the data of enterprises which are linked to these partner enterprises, unless their accounts data are already included through consolidation.

4 Where in the consolidated accounts no staff data appear for a given enterprise, staff figures are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked.

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ANNEX II

Information regarding State aid exempt under the conditions of this Regulation to be provided through the established Commission IT application as laid down in Article 11

Aid reference	<i>(to be completed by the Commission)</i>	
Member State	.....
Member State reference number	.....
Region	Name of the Region(s) (NUTS ⁽¹⁾)
Granting authority	Name	.....
	Postal address	.....
	Web address	.....
Title of the aid measure	.....
National legal basis (Reference to the relevant national official publication)	..... ..... .....
Web link to the full text of the aid measure	.....
Type of measure	<input type="checkbox"/> Scheme	
	<input type="checkbox"/> Ad hoc aid	Name of the beneficiary and the group ⁽²⁾ it belongs to
Amendment of an existing aid scheme or ad hoc aid		Commission aid reference
	<input type="checkbox"/> Prolongation	..........
	<input type="checkbox"/> Modification	..........

⁽¹⁾ NUTS - Nomenclature of Territorial Units for Statistics. Typically, the region is specified at level 2.

⁽²⁾ An undertaking for the purposes of rules on competition laid down in the Treaty and for the purposes of this Regulation is any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed. The Court of Justice has ruled that entities which are controlled (on a legal or on a de facto basis) by the same entity should be considered as one undertaking.

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Duration ⁽³⁾	<input type="checkbox"/> Scheme	dd/mm/yyyy to dd/mm/yyyy
Date of granting	<input type="checkbox"/> Ad hoc aid	dd/mm/yyyy
Economic sector(s) concerned	<input type="checkbox"/> All economic sectors eligible to receive aid	
	<input type="checkbox"/> Limited to certain sectors: Please specify at NACE group level ⁽⁴⁾
Type of beneficiary	<input type="checkbox"/> SME	
	<input type="checkbox"/> Large undertakings	
Budget	Total annual amount of the budget planned under the scheme ⁽⁵⁾	National currency (full amounts)
	Overall amount of the ad hoc aid awarded to the undertaking ⁽⁶⁾	National currency (full amounts)
	<input type="checkbox"/> For guarantees ⁽⁷⁾	National currency (full amounts)
Aid instrument	<input type="checkbox"/> Grant/Interest rate subsidy	
	<input type="checkbox"/> Loan/Repayable advances	
	<input type="checkbox"/> Guarantee (where appropriate with a reference to the Commission decision) ⁽⁸⁾	
	<input type="checkbox"/> Tax advantage or tax exemption	
	<input type="checkbox"/> Other (please specify)	.....
		Indicate to which broad category below it would fit best in terms of its effect/function: <input type="checkbox"/> Grant <input type="checkbox"/> Loan <input type="checkbox"/> Guarantee <input type="checkbox"/> Tax advantage

⁽³⁾ Period during which the granting authority can commit itself to grant the aid.

⁽⁴⁾ NACE Rev. 2 — Statistical classification of Economic Activities in the European Union. Typically, the sector shall be specified at group level.

⁽⁵⁾ In case of an aid scheme: Indicate the annual overall amount of the budget planned under the scheme or the estimated tax loss per year for all aid instruments contained in the scheme.

⁽⁶⁾ In case of an ad hoc aid award: Indicate the overall aid amount/tax loss.

⁽⁷⁾ For guarantees, indicate the (maximum) amount of loans guaranteed.

⁽⁸⁾ Where appropriate, reference to the Commission decision approving the methodology to calculate the gross grant equivalent, in accordance with Article 5(2)(c).

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<p>Indicate which of Articles 13 to 45 is used</p>	<p><input type="checkbox"/> list of Articles</p>
<p>Aid to make good the damage caused by natural disasters (Article 44)</p>	<p>Type of natural disaster:</p> <p><input type="checkbox"/> earthquake</p> <p><input type="checkbox"/> avalanche</p> <p><input type="checkbox"/> landslide</p> <p><input type="checkbox"/> flood</p> <p><input type="checkbox"/> tornado</p> <p><input type="checkbox"/> hurricane</p> <p><input type="checkbox"/> volcanic eruption</p> <p><input type="checkbox"/> wild fire</p> <p>Date of the occurrence of the natural disaster dd/mm/yyyy to dd/mm/yyyy</p>
<p>Motivation</p>	<p>Indicate why a State aid scheme has been established or an ad-hoc aid has been granted, instead of assistance under the European Maritime and Fisheries Fund (EMFF):</p> <p><input type="checkbox"/> measure not covered by the national operational programme;</p> <p><input type="checkbox"/> prioritisation in the allocation of funds under the national operational programme;</p> <p><input type="checkbox"/> funding no longer available under the EMFF;</p> <p><input type="checkbox"/> other (please specify)</p>

ANNEX III

Provisions for the publication of information referred to in Article 9(1)

Member States shall organise their comprehensive State aid websites, on which the information referred to in Article 9(1) is to be published, in a way to allow easy access to the information.

Information shall be published in a spreadsheet data format, which allows data to be searched, extracted and easily published on the Internet, for instance in CSV or XML format. Access to the website shall be allowed to any interested party without restrictions. No prior user registration shall be required to access the website.

The following information on individual awards as laid down in Article 9(1)(c) shall be published:

- Name of the beneficiary
- Beneficiary's identifier
- Type of enterprise (SME/large) at the date of granting
- Region in which the beneficiary is located, at NUTS level II⁽¹⁾
- Sector of activity at NACE group level⁽²⁾
- Aid element, expressed as full amount in national currency⁽³⁾

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- Aid instrument⁽⁴⁾ (grant/interest rate subsidy, loan/repayable advances/reimbursable grant, guarantee, tax advantage or tax exemption, other (please specify))
- Date of granting
- Objective of the aid
- Granting authority

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- (1) NUTS — Nomenclature of Territorial Units for Statistics. Typically, the region is specified at level 2.
- (2) Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community ([OJ L 293, 24.10.1990, p. 1](#)).
- (3) Gross grant equivalent. For fiscal schemes, this amount can be provided by the ranges set out in Article 9(2).
- (4) If the aid is granted through multiple aid instruments, the aid amount shall be provided by instrument.

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