



## FACTSHEET

# De minimis support in Interreg Baltic Sea Region

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## INTRODUCTION

An undertaking that receives support from public funding sources, such as Interreg Baltic Sea Region, may gain an advantage over its competitors through this support. Furthermore, the support can distort competition and affect trade between Member States. If this is the case, State aid is present.

The EU Treaty wants to prevent such effects on the market and therefore generally prohibits State aid. However, in some circumstances such support is necessary for a well-functioning and equitable economy. Therefore, the Treaty leaves room for a number of measures through which State aid can be made compatible with the rules. The Programme uses two of these measures, namely the General Block Exemption Regulation and *de minimis*. The Programme Manual lays down the State approach and procedures of the Programme. **This factsheet aims at providing additional information about the *de minimis* Regulation. The annexes to this factsheet support State aid relevant partners of approved projects in deciding whether *de minimis* is relevant for them and whether they are able to use *de minimis*.**

Interreg Baltic Sea Region Managing Authority/ Joint Secretariat

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## ● SUMMARY

*The de minimis principle allows project partners to receive comparatively small amounts of support without being caught by the State aid rules. This is because the European Commission assumes that small amounts of support do not have a significant impact on competition and trade in the European Economic Area (EEA). In general, a single undertaking can receive de minimis support of up to EUR 300,000 per Member State over any period of three years. In Interreg Baltic Sea Region, Germany is the Member State granting de minimis aid to project partners. Interreg Baltic Sea Region applies the de minimis facility only in exceptional cases and based on the request of the project partner concerned.*

## ● LEGAL BASIS

*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:*

[https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L\\_202302831](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202302831)

### **Please note**

This factsheet is a summary of the key points of Regulation 2023/2831 and hereinafter referred to as “the Regulation” but is not a substitute for the full text of the Regulation, to which reference should be made.

## ● GEOGRAPHICAL COVERAGE

*In Interreg Baltic Sea Region the de minimis Regulation applies to the EU Member States covered by the Programme and Norway.*

## ● AMOUNTS OF SUPPORT

*The total **amount** of de minimis aid per Member State (i.e. Germany in case of Interreg Baltic Sea Region) to a single undertaking is EUR 300,000 over any period of three years. The period of three years is assessed on a rolling basis. For each new grant of de minimis aid, the total amount of de minimis aid granted in the previous three years needs to be taken into account.*

*De minimis aid is deemed to be granted at the moment that the legal right to receive the aid is conferred, irrespective of the date of payment. In Interreg Baltic Sea Region this is understood as the date when the last contracting party signs the subsidy contract.*

*Where the relevant ceiling would be exceeded by the grant of new de minimis aid, the new aid shall not benefit from the de minimis Regulation. This means that if an application is received which would result in the ceiling being exceeded, de minimis support cannot be awarded in whole or in part, even if a partial award would not result in the ceiling being exceeded.*



## ● SINGLE UNDERTAKINGS

The ceiling on de minimis aid is calculated per single undertaking per Member State. The intention here is that multiple subsidiaries of the same firm in different Member States could each receive de minimis aid without the ceiling being breached. Conversely, subsidiaries of the same firm could not each receive de minimis support from the same Member State. However, there has been some debate about the applicability of 'per Member State' in the context of Interreg programmes. In Interreg Baltic Sea Region only the Member State in which the MA/JS is located (i.e. Germany) will be used as the basis for assessing eligibility for de minimis support.

The notion of a 'single undertaking' includes all enterprises having at least one of the following relationships with one another:

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***one enterprise has a majority of the shareholders' or members' voting rights in another enterprise***

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***one enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise***

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***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***

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***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 the enterprise, a majority of shareholders' or members voting rights in that enterprise***

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Although the Regulation refers to 'enterprises', in practice, this encompasses any entity engaged in an economic activity.

The above criteria are intended to ensure that a group of linked entities is treated as a single undertaking for the purposes of the de minimis rule. On the other hand, it is intended to ensure that entities which have no relationship with each other except for the fact that each of them has a direct link to the same public body or bodies are not treated as being linked to each other.

It can also be assumed that, for example, different departments of one university would be regarded as part of a single undertaking, i.e. the university.

In calculating the amount of aid, special care must be taken where the recipient has been the subject of a merger or a split from another organisation. In the case of mergers and acquisitions, all prior de minimis aid is considered in determining whether new de minimis support can be paid. De minimis aid lawfully granted before a merger or acquisition shall remain lawful. If an undertaking splits into two or more separate undertakings, all de minimis support granted before the split shall be allocated to the undertaking that benefitted from it. This is in principle the undertaking taking on the activities for which de minimis support was used. If such an allocation is



not possible, *de minimis* support will be allocated proportionately on the basis of the book value of the equity capital of the new undertaking at the effective date of the split.

## ● EXCLUSIONS

*Interreg Baltic Sea Region is not allowed to grant the following types of aid under the de minimis Regulation:*

- *Aid to undertakings active in the primary production of fishery and aquaculture products<sup>1</sup>;*
- *Processing and marketing of fishery and aquaculture products<sup>2</sup> if the amount of the requested de minimis aid is fixed on the basis of the price or quantity of such products purchased or put on the market;*
- *Aid to undertakings active in the primary production of agricultural products<sup>3</sup>;*
- *Processing and marketing of agricultural products<sup>4</sup> if the amount of the requested de minimis aid is a) fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned, or b) conditional on being partly or entirely passed on to primary producers;*
- *Aid to export-related activities towards third countries or Member States 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<sup>5</sup>.*

*Additionally, the Programme ensures that partners do not receive the other types of aid that are excluded by the de minimis Regulation in addition to the ones listed above.*

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<sup>1</sup> fishery and aquaculture products' means the products defined in Article 5, points (a) and (b), of Regulation (EU) No 1379/2013

'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

<sup>2</sup> '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 the case of aquaculture – that result in a processed product, as well as the distribution thereof

<sup>3</sup> 'agricultural products' means products listed in Annex I to the Treaty, with the exception of fishery and aquaculture products falling within the scope of Regulation (EU) No 1379/2013 of the European Parliament of the Council

'primary agricultural production' means the production of products of the soil and of stock farming, listed in Annex I to the Treaty, without performing any further operation changing the nature of such products, as well as on-farm activities necessary for preparing a product for the first sale (for example, harvesting; cutting and threshing of cereals; or packing eggs) or the first sale to resellers or processors.

<sup>4</sup> 'processing of agricultural products' means any operation on an agricultural product resulting in a product that is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for the first sale

<sup>5</sup> Aid towards the costs of participating in trade fairs or towards the costs of studies or consultancy services needed to launch a new or existing product on a new market in another Member State or third country does not generally constitute export aid



## ● ENSURING COMPLIANCE

*When granting a de minimis support to a particular undertaking, the awarding body must check that the support is not excluded by the de minimis Regulation. Furthermore, it must check that the new support will not raise the total amount of de minimis support received by that undertaking during the relevant three-year period above the EUR 300,000 ceiling. This can be done in the following ways:*

- *the Member State has a central register of de minimis support containing complete information on all de minimis support granted by any authority within the Member State and covering a period of at least three years (within Interreg Baltic Sea Region, Estonia, Lithuania and Poland operate such systems), or*
- *the European Commission set up a central register at the Union level that can be used by Member States and covers a period of at least three years (this register is expected to be operational by 1 January 2026), or*
- *the enterprise provides to the Member State a declaration about any other de minimis aid received over any period of three years, and the Member State explicitly informs the enterprise about the amount of the aid and its de minimis character, referring directly to the Regulation.*

*In Interreg Baltic Sea Region undertakings (i.e. applicants that carry out State aid relevant activities) will have to complete a **de minimis declaration** concerning the amount of de minimis support which they have already received from Germany in the preceding three years before the signature of the de minimis declaration.*

## ● MONITORING

*Until there is no national or Union de minimis register that covers a period of three years, the Member State has to inform the recipient in written or electronic form of the amount and the de minimis character of the support – this ensures that the recipient is in a position to comply with future declarations on de minimis support if required.*

*In Interreg Baltic Sea Region the Managing Authority will provide this information to each recipient via the **de minimis award letter** after signature of the subsidy contract.*

*Once a national or Union de minimis register is available, but from 1 January 2026 at the latest, Member States shall register any de minimis aid granted by any authority within the Member State within 20 working days following the grant of the aid. The information comprises the identification of the beneficiary, the aid amount, the granting date, the granting authority, the aid instrument and the sector involved based on the statistical classification of economic activities in the Union ('NACE classification').*

*Information about the application of the Regulation must be compiled and recorded. This must contain all the information needed to show that the conditions of the regulation have been met. Records of individual de minimis support must be maintained for 10 years from the date on which the aid was granted. This information must be available on request from the Commission within 20 working days, but does not require to be actively reported to the Commission otherwise.*



## ● ADMINISTRATIVE ARRANGEMENTS

*If an applicant wishes support based on the de minimis Regulation, the applicant will have to request this after project approval and during the project's contracting phase. It will have to submit a formal de minimis declaration regarding past de minimis support.*

*This formal declaration is subject to a plausibility check by the Managing Authority.*

*In case of a positive plausibility check, the Programme can grant de minimis support. After signature of the subsidy contract, the Managing Authority will issue de minimis award letters for each recipient of de minimis support. These letters inform about the amount and the de minimis character of the support.*

*The Managing Authority ensures compliance with the monitoring and administrative arrangements of the de minimis Regulation. Project partners receiving de minimis aid have to maintain relevant documentation as outlined in the Programme Manual.*

## ● OTHER RELEVANT DOCUMENTS

*FACTSHEET/ The General Block Exemption Regulation (GBER) in Interreg Baltic Sea Region*

*De minimis declaration*

*De minimis award letter*

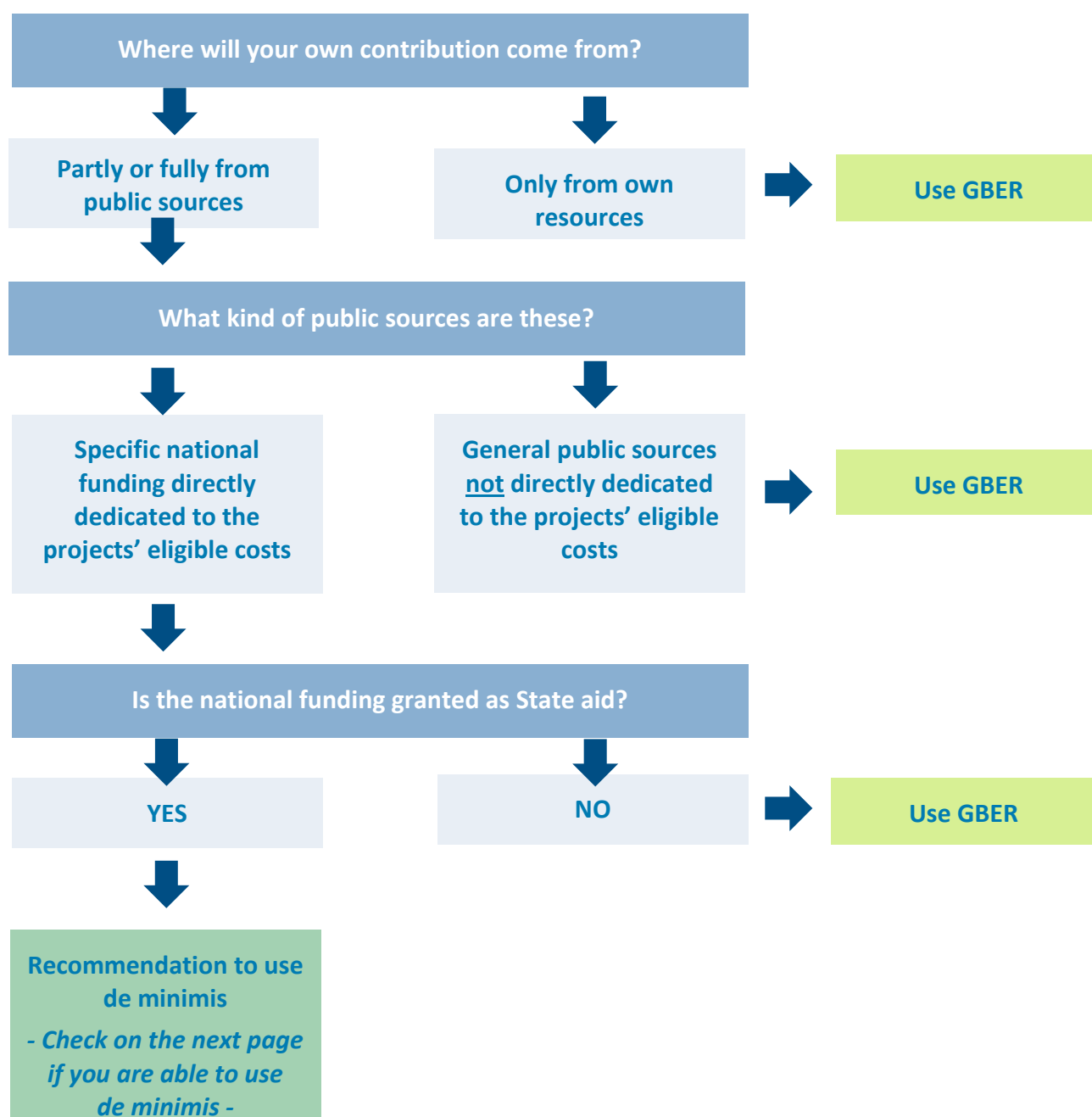


## Annex 1: Is de minimis relevant for me?

This annex helps the State aid relevant partners of approved projects to decide whether de minimis is relevant for them.

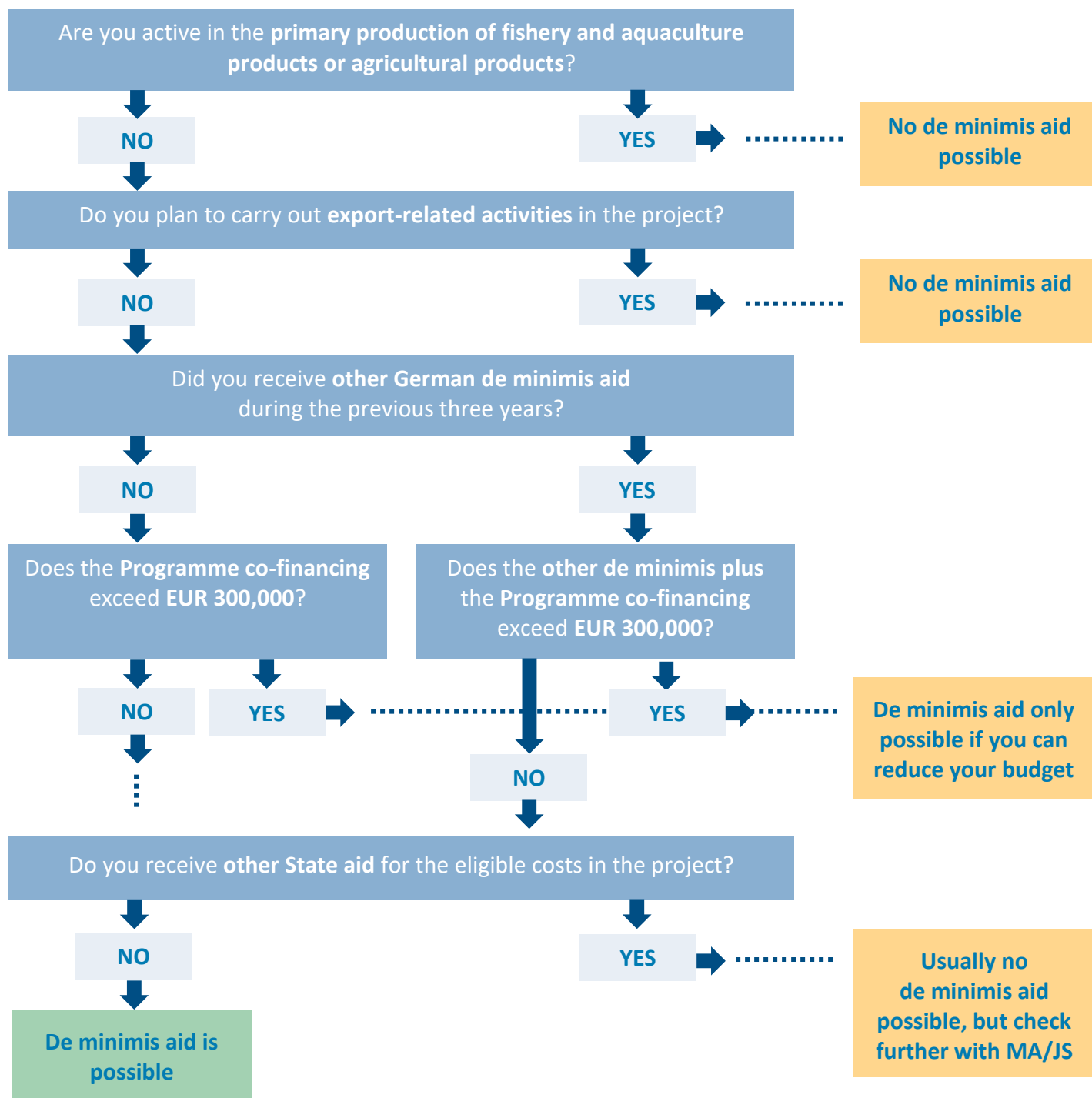
As a **standard**, Interreg Baltic Sea Region frames **State aid** within the **General Block Exemption Regulation (GBER)** to make it eligible. The GBER covers all types of project partners and eligible costs in the project.

**De minimis** is relevant for **exceptional cases** only. **Check here**, if it is relevant **for you**:





## Annex 2: Am I able to use de minimis?



**Disclaimer:** This is a simplified flowchart that shall provide a first overview of the possible use of de minimis. In case of questions, please contact the MA/JS. Further information on definitions and limitations is available in the de minimis factsheet and the de minimis declaration.