

## BirdLife`s response EC consultation State Aid for Fisheries and Aquaculture sector

11/03/22

European State Aid for Fisheries and Aquaculture should address the 21st century challenges of the climate and biodiversity crises. The European Green Deal and its related strategies, such as the 2030 European Biodiversity Strategy, pave the way towards a renewed approach for combining socio-economic and ecological aspects of sustainable development for fisheries with minimum environmental impact. By now, policy makers and the fishing industry need to acknowledge that healthy and resilient marine ecosystems are the indispensable foundation of the sector`s existence as part of a sustainable blue economy.

Therefore, the Commission`s Guidelines for State Aid in the fishery and aquaculture sector must clearly direct Member States towards FAIR funding: Fair, Ambitious, Innovative and Revitalising for both fisheries and the marine environment. They need to favour and prioritise transition to low-impact fisheries allowing better protection and restoration of marine resources. Additionally, harmful subsidies should be eliminated in funding schemes, because they have a negative impact on the environment through promoting unsustainable practices. In this context, it is imperative to respect the `do-not-harm` principle.

We call on the European Commission and Member States to make better use of their responsibility to assess properly and systematically all sector activities subject to funding. This should be done against the environmental objectives of the key marine and biodiversity policies to achieve the good environmental status of marine ecosystems. At present, we see that several projects with public fisheries funding do not meet the principles of the Common Fisheries Policy (CFP) nor do they have positive effects on marine ecosystems or local communities (e.g. EMFAF funding for infrastructure projects along the coastline in Spain). The current version of the State Aid Guidelines explicitly refers to the objectives of the CFP in the introductory section of the common provisions: “... *the use of State aid can only be justified if it is in line with the objectives of the CFP...*” (point 4) and “*the CFP, ..., aims, in particular, at ensuring that fishery and aquaculture activities are environmentally sustainable in the long term...*” (point 5). The section on conditions also states that “*Member States must ensure that each beneficiary of a State aid measure complies with the rules of the CFP*” (point 58). We propose to add in these sections a specific point indicating that aid should also contribute to the objectives of the European Green Deal and its related strategies in line with environmental legislation (e.g. Nature Directives and the Marine Strategy Framework Directive). Now, reference to it is only made `in the margin`, mainly in the context of “*weighing up the positive and the negative effects of the aid*” (“balancing test” section 3.2.6). The importance of the latter

section should not be underestimated, as point 130 states that “*where aid is granted in favour of investments, the Commission will pay particular attention to whether the activity qualifies as environmentally sustainable, ..., including its respect of the ‘do no significant harm’ principle*”. Compliance with all environmental obligations is a basic prerequisite to ensure that aid measures do not undermine Europe’s international and regional commitments on nature and climate.

The State Aid Guidelines have a particular importance to decrease overfishing effectively. Point 5 in the current draft states that “*Overall, in line with the CFP objectives, State aid should not lead to increase in fishing capacity of the fishing fleet, overfishing or displacement of fishing effort that could lead to such overfishing.*” In our opinion, this point is of paramount importance in light of the EU’s environmental objectives. Therefore, we suggest to make it more visible by putting this sentence in a separate point. Moreover, we believe that it should be formulated stronger: funding does not only need to avoid an increase of fishing capacity and overfishing (cf. harmful subsidies mentioned above); aid should also support the effective reduction of it. If a decrease in fishing effort (e.g. through reduction in the number of vessels, power or tonnage) does not entail a decrease in catches, the funded activity is not effective.

In the Guidelines, the Commission considers “*that there should be consistency and coherence between its policy of State aid control and the support which is granted under the CFP through the EMFAF*” (point 4). The Commission also refers in point 10 to the priorities of EMFAF, including the contribution to the protection and restoration of aquatic biodiversity and ecosystems. Strong coherence between EMFAF and State Aid conditions is indeed very important to optimise the use of existing funding opportunities and support dedicated ring fencing for nature to reduce the environmental impact of fisheries measures. In addition, the State Aid Guidelines should be more restrictive where needed to avoid increasing fishing impact. In 2021, the Commission has failed to include specific environmental prescriptions in the new EMFAF and left it to the Member States to develop future-proof operational EMFAF programmes. The Commission and the Member States are the only ones responsible to ensure that all aid to the fisheries and aquaculture sector is made conditional, pushing the beneficiary to comply with the rules and principles mentioned above, with clear implications if infringements are committed. They need to respect all EU commitments on the conservation and restoration of marine ecosystems, fish stocks and climate change.

We refer for more information to our recommendations on criteria and solutions in our [joint NGO briefing on EMFAF](#) (2021) and the [report of Client Earth](#) (2021).