**Comments of Czechia on the 1st draft Commission Regulation (EU) .../... of ... amending Regulation (EU) No 1408/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the agriculture sector**

1. Czechia welcomes the Commission's efforts to ensure compliance with Commission Regulation (EU) 2023/2831, but in order to fully align the conditions for *de minimis* aid, it is **absolutely** necessary to **adjust any PERIOD of 3 years also for Commission Regulation (EU) No 717/2014 to *de minimis* aid in the fishery and aquaculture sector**, which still defines the reference period for the assessment of the *de minimis* ceiling as three fiscal years. **This modification of Regulation (EU) No 717/2014 is very crucial for Czechia**. This step would definitely help the Commission to reduce the administrative burden on both aid beneficiaries and granting authorities and would clarify and simplify the provision of *de minimis* aid, which historically has always been one of the simplest instruments.

Without harmonization of the reference period for all *de minimis* aid regulations, it is not possible to ensure an effective and comprehensible evaluation of the cumulation rules between the different sectors (regulations) of *de minimis* aid for both aid beneficiaries and granting authorities. Moreover, this double-tracking rules on the calculation of the reference periods are technically very difficult to implement even in the central *de minimis* register, which has been helping granting authorities in Czechia for 14 years to check the limits and cumulation of aid for individual beneficiaries. On the basis of our long experience with the operation of the central register, we can state that if the reference period for all *de minimis* regulations is not harmonized, the administrative burden for beneficiaries will unfortunately not be reduced as the Commission envisages but will instead be increased on all sides.

At the same time, we would like to draw the Commission's attention to the practical implications if the reference period is adjusted now only for Commission Regulation (EU) No 1408/2013, while its adjustment under Regulation (EU) No 717/2014 would only take place separately in subsequent years, as the Commission indicated in the Advisory Committee. In practice, this separation would be **doubly burdensome**:

* Technical adaptation of the register: the change in the calculation of the reference period needs to be implemented in the central *de minimis* register operated by Czechia, which of course involves financial costs for programming work, etc. If the legislative amendment now focuses only on Regulation (EU) No 1408/2013, while the amendment of Regulation (EU) No 717/2014 will only be approved in the future, this means splitting the programming work into two different projects, which logically entails higher costs (both time and financial) than implementation under one common project. The technical modifications of the register need to be thoroughly programmed, tested and described in the methodological materials for granting authorities and beneficiaries of *de minimis* aid.
* Revision of national legislation: a clear definition of the reference period to which the maximum applicable *de minimis* aid ceiling applies is a key criterion for both granting authorities and beneficiaries of *de minimis* aid. For this reason, Czechia has defined the concept of the reference period for *de minimis* aid in national Decree No 298/2020 Coll., which is a binding legal regulation for granting authorities of *de minimis* aid. If the definition of the reference period in the EU de *minimis* regulations is changed, Czechia must reflect this change in its national decree. If the Commission were to split the revision of the reference period into two separate steps, this would mean a double process of amending the national regulation for Czechia, which again brings not only a significant administrative burden - the process of legislative change at national level takes at least 6 months - but the frequent amendments to the legislation make it confusing for its addressees – granting authorities and beneficiaries of *de minimis* aid.

Czechia considers that the aspects described above do not only concern itself, but also other MS in the same situation. Czechia therefore reiterates its call on the Commission to make a purely technical revision of the provisions of Regulation (EU) No 717/2014 concerning the format of the reference period as part of the current revision of Regulation (EU) No 1408/2013.

1. Concerning **Article 1, point 2 of** the draft Regulation: As regards the replaced paragraph 4, it is necessary to clarify what is meant by '*measures'* in the context of the condition '*aid measures which benefit only one single product sector*'. Does it mean a scheme that is targeted at one specific sector (e.g. aid for growing of potatoes) or does it mean all aid going to one sector, regardless of the specific aid scheme under which it is granted?
2. On Article **1(3) of** the draft Regulation (individual *de minimis* ceiling): Czechia is of the opinion that the proposed *de minimis* ceiling of EUR 37 000 per a single undertaking is inadequately low and should be **increased to EUR 50 000** and the national cap for Member States set out in the Annex to the Regulation should be increased in proportion.

There have been changes in the market over the past period that justify the higher ceiling. Inflation in Czechia was higher than the EU average. Inflation was particularly high in 2022 and 2023. EUROSTAT's methodology differs compared to Czechia. It uses the HICP index. Therefore, the EUROSTAT data for Czechia are different compared to the Czech Statistical Office (CSO) methodology. The difference between the EUROSTAT index and the CSO methodology is due to imputed rents, which the CSO includes, and EUROSTAT does not because of the high share of owner-occupied housing in Czechia.

The different inflation rates between the EU and Czechia and the different structure of farms in Czechia and the EU constitute a strong argument to justify the increase of the proposed limit. In the view of Czechia, the increased limit will not distort competition.

**HICP inflation rates in the EU27 and Czechia (Source: EUROSTAT)**

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **2012** | **2013** | **2014** | **2015** | **2016** | **2017** | **2018** | **2019** | **2020** | **2021** | **2022** | **2023** |
| **EU 27** | 2,6 | 1,3 | 0,4 | 0,1 | 0,2 | 1,6 | 1,8 | 1,4 | 0,7 | 2,9 | 9,2 | 6,4 |
| **CZ** | 3,5 | 1,4 | 0,4 | 0,3 | 0,6 | 2,4 | 2,0 | 2,6 | 3,3 | 3,3 | 14,8 | 12,0 |

**Inflation rate in Czechia according to the CSO**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **2019** | **2020** | **2021** | **2022** | **2023** |
| CZ | 2,8 | 3,2 | 3,8 | 15,1 | 10,7 |

1. On **Article 1(3) of** the draft Regulation (sector cap): As regards Article 3(4) and the sectoral limit set out therein, Czechia considers that, firstly, the risk of possible future crises in agriculture should be taken into account, for example, where it would be necessary to support only one affected sector. The impact of such an aid measure on the proposed sector cap cannot be foreseen in advance. Secondly, we are also concerned about a disproportionate increase in the administrative burden of granting aid, especially for the public sector as the granting authority, if the sector cap were to become mandatory. For the above reasons, Czechia proposes that the **sector cap** in Article 3(4) should either be **abolished altogether** or at *least that the sector cap* should be **increased** from 50% **to 70%** in Article 2(4) of the revised Regulation.
2. On **Article 1, point 6 of** the draft Regulation: The newly inserted paragraph 2a in Article 5 must be modified as follows to bring it in line with the already existing conditions of Article 5(1) of Commission Regulation (EU) 2023/2831:

"*De minimis aid granted under this Regulation may be cumulated with de minimis aid granted under Commission Regulation (EU) 2023/2832\* up to* ***~~the ceiling set in that Regulation, provided that the Member State concerned ensures by appropriate means that primary production of agricultural products does not benefit from de minimis aid granted under Regulation (EU) 2023/2832~~***."

As it has become clear from the Commission's interpretation of the application, the ceilings in Commission Regulations (EU) 2023/2831 and 2023/2832 are cumulative, in other words, to a single undertaking can be granted aid of up to EUR 300 000 under Regulation (EU) 2023/2831 and if this undertaking is entrusted with the service of general economic interest, it can receive aid of up to EUR 750 000 under Regulation (EU) 2023/2832 as well. Logically, the same condition should apply in the case of cumulation of Regulations (EU) No 1408/2013 and 2023/2832, i.e. it should be possible to grant aid of up to EUR 37 000 + EUR 750 000 per a single undertaking in the same way. In addition to the need to harmonize cumulation rules, the lower *de minimis* threshold for aid under Regulation (EU) No 1408/2013, i.e. its lower potential to distort competition, should be taken into account.

1. On **Article 1, point 7 of** the draft Regulation: In the replaced Article 6(1), the information to be registered in the central register must include, among other things, 'the *sector involved on the basis of the statistical classification of economic activities in the Union ("NACE classification")*'. However, it is not clear from the text of the draft at which level of NACE the sector involved is to be identified and Czechia therefore requests clarification. Czechia considers that the NACE classification at Group level (e.g. A.01.4 - Animal production) should be sufficient for identification purposes.

**Comments of a formal and linguistic nature**

1. In Article 1 of the draft Regulation, a paragraph should be added concerning Article 1(2) of Regulation (EU) No 1408/2013, adapting the title to the Regulation currently in force: '*Where an undertaking is active in the primary production of agricultural 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~~* ***2023/2831***...'.
2. On **Article 1(3) of** the draft Regulation (CS language version): In the replaced Article 3(7), the first sentence needs to be modified as follows: '*Pro účely* ***~~stropů~~******stropu*** *podpory de minimis, jakož i...*', as Regulation (EU) No 1408/2013 will contain only one *de minimis* aid ceiling after the revision.

For the same reason, it is necessary to make the same modification in the first sentence of the replaced Article 3(10), as follows: '…*zda žádnou novou podporou de minimis poskytnutou nově vzniklému či nabývajícímu podniku nedošlo k překročení* ***~~příslušných stropů~~ příslušného stropu*** *podpory de minimis…*'.

1. Concerning **Article 1, point 7 of** the draft Regulation (both CS and EN language versions): In the replaced Article 6(4), it is appropriate to align the terminology used by the following modification, as the wording of the Regulation distinguishes linguistically between ceilings (within the meaning of Article 3(2) - individual beneficiary) and caps (within the meaning of Article 3(3) - national cap and Article 3(4) - sector cap):

*„Členský stát smí poskytnout novou podporu de minimis v souladu s tímto nařízením teprve po ověření toho, zda nová podpora de minimis nezvýší celkovou částku podpory de minimis, která byla dotčenému podniku poskytnuta, nad* ***~~stropy~~******strop******a limity*** *stanovené v čl. 3 odst. 2, 3 a 4 a zda jsou splněny veškeré podmínky stanovené v tomto nařízení.*"

“A *Member State shall grant new de minimis aid in accordance with this Regulation only after it has verified that the new de minimis aid will not raise the total amount of de minimis aid granted to the undertaking concerned to a level above the* ***~~ceilings~~ ceiling and limits*** *laid down in Article 3(2), (3) and (4) and that all the conditions laid down in this Regulation are complied with*."