



De minimis aid and the notion of “single undertaking”

South Baltic Programme 2014-2020

Ministry of Development | Territorial Cooperation Department | Warsaw 2015

General rules

Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis aid*¹, (OJ L 352, 24.12.2013, p. 1–8) specifies conditions for granting an aid of a small amount.

The *de minimis* aid is deemed not to meet all criteria laid down in Article 107 (1) of the Treaty granted to a single undertaking over a given period of time and up to a certain fixed amount. The *de minimis* aid is not subject to the notification procedure.

Because of its small amount, the *de minimis* aid, is considered not to have any effect on trade between Member States and not to distort or threaten to distort competition.

The *de minimis* aid may be paid for almost any purpose as long as it meets the conditions set out in the *de minimis* regulation. This is the project-oriented aid.

The ceiling

The ceiling of EUR 200 000 applies to the Member State and to a single undertaking over the period of three fiscal years.

The ceiling of 200 000 EUR applies to the total amount of *de minimis* aid granted to a single undertaking from all sources of *de minimis* aid.

The total amount of *de minimis* aid means the amount of *de minimis* aid granted per one Member State to a single undertaking.

The period of three years to be taken into account should be assessed on a rolling basis so that, for each new grant of *de minimis* aid, the total amount of *de minimis* aid granted in the fiscal year concerned and during the previous two fiscal years.

Before granting *de minimis* aid, each/every Member State should verify that the *de minimis* ceiling for a single undertaking will not be exceeded in that Member State and that the other conditions of *de minimis* regulation are complied with.

The cumulation?

The *de minimis* aid cannot be cumulated with State aid given towards the same eligible costs if it means that its total amount would exceed the maximum intensity of an aid granted under block exemptions regulation (GBER) or notified scheme. However *de minimis* aid could be given for separate costs.

¹ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2013.352.01.0001.01.ENG

The notion of single undertaking

As it is stipulated in regulation 1407/2013 on *de minimis* aid, the single undertaking includes all enterprises having at least one of the following relationships with each other:

- one enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
- one enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
- 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;
- 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 that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

In case of entities having direct or indirect relationships with public bodies they are not considered to be a single undertaking.

Monitoring

A Member State could grant new *de minimis* aid only after having checked that total amount of *de minimis* aid granted to a single undertaking would not exceed the ceiling of 200 000 EUR. The total amount of *de minimis* aid granted in the fiscal year concerned and during the previous two fiscal years needs to be taken into account.

Undertaking shall have an obligation to obtain a declaration about any other *de minimis* aid received during the previous two fiscal years and current fiscal year. Poland has set up a register of *de minimis* aid containing complete information on all *de minimis* aid granted within the Republic of Poland.

The Member State is also obliged to inform that undertaking in writing of the amount of granted *de minimis* aid in case to declare it in the future if asked. Beneficiaries must keep records of all received *de minimis* aid for 3 years.