



*Employers entrusted to deliver
Sustainability Growth Innovation*

Position Paper

SGI Europe response to the de minimis Regulation

10 January 2023

Brussels, 10th January 2023

SGI Europe Feedback on the de minimis Regulation

As an employers' organisation and one of the EU cross-industry social partners, SGI Europe represents enterprises active in services of general interest (SGIs). SGI Europe members are active in sectors such as energy, healthcare, telecommunications, waste and water management, ... Due to their mission of serving the society at large and the existing market failure, SG(E)I providers are highly dependent on state interventions.

SGI Europe welcomes the proposed revision of 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. SGI Europe particularly welcomes the prolongation of the regulation (as proposed until 31 December 2030) and the intention to increase the threshold under which support measures are deemed as not constituting aid.

SGI Europe is aware that any increasing of the ceiling needs careful consideration to prevent subsidy race between the Member States and ensure a level playing field. Any potentially more distortive measure needs to be scrutinised by the European Commission. However, considering that the last time that the threshold was increased, SGI Europe thinks that the proposed thresholds are too low. According to the Explanatory note, the last adjustment of the threshold (in the year 2006) took into consideration the expected inflation in 2013. However, since 2021, the inflation significantly increased, varying greatly between the different Member States and sectors. Therefore, SGI Europe believes that the threshold could be raised to EUR 500 000 over three consecutive years. This would disburden the Commission of measures that are less likely to have an impact on cross border trade and at the same time allow the Commission to focus on 'more distortive' aid measures that indeed need to be scrutinised.

SGI Europe opposes the introduction of a mandatory register at national or EU level where Member States would provide complete information on de minimis aid granted by any authority, since it will increase administrative burden. The decision whether to introduce a mandatory register or not, should be left to Member States.

The Member States that are not using public registers are relying on the system of self-declaration, which is appropriate and functions well. In practice, public authorities may have difficulties identifying structures of ownership and control of beneficiaries that might be considered as one undertaking under the de minimis Regulation. In such cases, relying on self-declarations to provide de minimis

aid is the most effective way. A solution to comply with the need for more transparency could be that the public authorities would disclose these self-declarations.

SGI Europe supports the clarification included in recital 4, explicitly stating that undertakings controlled by the same public body or bodies, which may have an independent power of decision, provided that they have no relation to each other, must be regarded as separate undertakings. However, since it is not always clear for the legal practitioners how binding statements of recital 4 are, we propose to include the wording of recital 4 in Article 2(2) of the de minimis regulation that sets the definition of the notion of 'single undertaking.' This would improve legal certainty.