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## **The Norwegian Association of Local and Regional Authorities' reply to the public consultation on the revision of the de minimis regulation.**

### **Introduction**

We refer to the Commission's public consultation on "State aid – exemptions for small amounts of aid (de minimis aid)". The Norwegian Association of Local and Regional Authorities ("KS" in Norwegian) hereby submits its feedback.

### **KS supports raising the ceiling for de minimis aid**

The draft Regulation proposes raising the ceiling for de minimis aid from EUR 200 000 to EUR 275 000 per single undertaking over any period of three years. KS strongly supports this increase.

In our view, however, a stronger increase than to EUR 275 000 is warranted. First, this is due to the accumulated inflation since the current de minimis level was set. Second, newer case law and Commission practice suggests a higher threshold for finding that a measure is liable to affect trade between Member States should be considered. In our view, EUR 600 000 is the most appropriate ceiling for de minimis aid. This is also most in line with the Commission's big on big approach, setting out that public support to purely local operations do not involve state aid within the meaning of EU.

### **KS is against introducing a mandatory public register for de minimis aid**

The draft Regulation further proposes introducing a mandatory public register at national or EU level where Member States provide complete information on de minimis aid granted by any authority. KS is against this proposal for both principled and pragmatic reasons.

Principled, we recall that a public measure that does not fulfill all the conditions to be considered State aid pursuant to TFEU Article 107 (1) and the EEA Agreement Article 61 (1), is outside the competence of EU/EEA State Aid Authorities. The de minimis regulation exempt certain measures from the notification requirement on the basis that they are not State aid pursuant to TFEU Article 107 (1). This is also set out in the first paragraph of the preamble of the draft regulation.

Further, most de minimis aid measures are not subject to State aid rules based on the definition in TFEU Article 107 (1) alone, due to insufficient effect on trade. We cannot find sufficient explanation in the proposal for the introduction of a mandatory register for public measures that by and large are outside the remit of State aid rules.

Pragmatically, a mandatory register should only be introduced if it can be sufficiently efficient, and if the benefits of the register outweighs the administrative burden. The proposal from the Commission provides little assessment on this point.

In this regard, we recall our previous remarks in the call for evidence last summer. We noted then that a mandatory register cannot fully replace self-declarations from potential beneficiaries. This is because companies in a group may be considered the same undertaking in relation to the de minimis limit. Public authorities are unlikely to have sufficient information about structures of ownership and control of beneficiaries. Thus, they may in any case need to rely on self-declarations to provide de minimis aid on an adequate basis.

So far as we can see, the current de minimis regulation allowing Member states to choose between ensuring transparency through a public register or self-declarations, functions well. Norway is among the countries in the EEA who have so far opted for a system of self-declaration.

The current de minimis regulation in force contributes to *simplifying* State aid rules by setting clear boundaries for measures that fall outside the notion of State aid. Introducing a mandatory register would mean that the new de minimis regulation *adds administrative burdens* for miniscule public measures, that in general would not be caught by State aid rules if not for the de minimis regulation itself.

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We thank the Commission for the opportunity to give our view on the proposal through the public consultation.

Regards,

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