CEMR REPLY TO THE PUBLIC CONSULTATION ON THE REVISION OF THE DE MINIMIS REGULATION

The European Commission has opened on 15 November 2022 a public consultation on the possible extension and revision of Regulation 1407/2013 concerning the exemption of small amounts of aid (de minimis regulation). As the current regulation will expire on 31 December 2023, the European Commission has published a draft revised regulation which provides an inflationary increase of the de minimis thresholds from € 200,000 to € 275,000 and from € 100,000 to € 137,500 for road transport companies. The draft regulation also sees the introduction of a mandatory transparency register at national or EU level.

The draft of the new de minimis regulation is based on the results of the evaluation of state aid rules carried out in 2020 and a call for evidence on the possible revision of the de minimis regulation carried out from 27 June to 25 July 2022.

CEMR welcomes the planned increase of the amounts. However, to adequately take into account the broader economic context, including the current inflation levels and the steady increase in production costs since 2006, we call upon the European Commission to foresee an increase of at least three times of the current de minimis threshold (from € 200,000 to € 600.000). We believe that only a threefold increase of the current de minimis threshold could strike an adequate balance between the audit and administrative costs that local authorities have to bear and the expected benefits.

Despite reaching unprecedented high levels, inflation is not the only variable to take into account when revising the current de minimis threshold, but attention should be devoted to the broader economic context. It is also of paramount importance to take into account the EU objectives in the social, environment, climate and digital field that will need strong public support and investments.

The current threshold has long been considered far too low from a local perspective. Moreover, the positive effects of such an increase in the threshold would not just spill over to the whole European economy, but also to large parts of European funding, which could achieve greater benefits for the recipients through lower administrative costs. This is also in line with the European Commission' "big on big" approach declaring that public support to purely local operations do not involve state aid within the meaning of EU law.

At the same time, it must be pointed out that the current regulation does not take into account the non-negligible administrative burden for local authorities even in case of "de minimis aid". This is notably the case when it comes to the prohibition of cumulation laid down in the regulation, where the European Commission should consider removing some relevant administrative burden for local authorities when the small amount of aid has no impact whatsoever on intra-EU competition.

Furthermore, CEMR is critical of the planned introduction of a mandatory register. The Member States' current choice (between state registers or self-declaration by companies) to avoid cumulation of de minimis aid should be retained. This is not least due to the subsidiarity principle. In those Member States that have opted for self-declaration by companies, this system has proved its worth. Moreover, the added value of the planned mandatory register is not evident. On the contrary, a compulsory register would considerably increase the administrative burden for local authorities, especially in the case of very small amounts. This is because local authorities do not have sufficient information about the ownership and control structures of the beneficiaries and therefore need to rely on self-declarations to provide de minimis aid on an adequate basis.

In this regard, CEMR suggests introducing a smaller de minimis threshold below which small individual subsidies with a value of less than € 10,000 would be completely exempted from recording and registration. This exemption would make sure that the administrative burden for amounts without any internal market relevance could be avoided. Companies run by local authorities under private law should be considered as independent from them under state aid law. Otherwise, their classification as "associated companies" would result in an additional, considerable examination burden for local authorities.

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About CEMR

The Council of European Municipalities and Regions (CEMR) is the broadest organisation of local and regional authorities in Europe. Its members are over 60 national associations of municipalities and regions from 41 European countries. Together these associations represent some 100 000 local and regional authorities.

CEMR's objectives are twofold: to influence European legislation on behalf of local and regional authorities and to provide a platform for exchange between its member associations and their elected officials and experts.

Moreover, CEMR is the European section of United Cities and Local Governments (UCLG), the worldwide organisation of local government