



ENSIE contribution to consultation

State aid – review of rules on exemptions for small amounts of aid to services of general economic interest - consultation

June 2023

ENSIE welcomes the European Commission's consultation on the SGEI de minimis regulation 360/2012.

Following its contribution to the call for evidence beginning of the year, ENSIE wishes to reiterate a couple of points below. Moreover, ENSIE wishes to refer to the shared position it submitted with Social Service Europe, RREUSE and Social Economy Europe.

1) Definitions

ENSIE suggest to add a point d) to article 2, 2.

(d) "Social economy enterprises" means entities sharing the following main common principles and features as set out in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Building an economy that works for people: an action plan for the social economy (COM (2021) 778 final)":

- the primacy of people as well as social and/or environmental purpose over profit;
- the reinvestment of most of the profits and surpluses to carry out activities in the interest of members/users ("collective interest") or society at large ("general interest"); For the purposes of this Regulation, this is considered to be a reinvestment of at least 80% of its profits for a financial year.
- and democratic and/or participatory governance.

These are enterprises providing services of general economic interest, which are defined as social economy according to the national legal frameworks or in the legal form of cooperatives, mutual benefit societies, associations, foundations or which constitute a social enterprise in accordance with the legislation of the Member States.

2) SGEI de minimis ceiling

ENSIE and its members support to increase the amount of the SGEI de minimis ceiling. ENSIE wishes to repeat its demand to increase the threshold further **to EUR 800.000 over any period of three fiscal years**, taking into account the past, current and future challenges as SGEI are not supplied by market forces alone but are often at the frontline to answer to health, economic and

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social crises. This higher threshold would give Member States more maneuver to tackle these challenges. The need to increase the threshold was already mentioned by several stakeholders and seems appropriate after 10 years of entry into force of the regulation. Moreover, a mechanism should be put in place to revise this threshold on a rolling basis, to monitor and adjust the threshold regularly to ensure an accurate reflection of the economic situation, including in times of high inflation. Mechanisms already in place at MS level could also be used.

ENSIE also proposes raising up the de minimis ceiling **to EUR 1 million over a period of three fiscal years for those undertakings which are obliged, according to their statutes and by law, to reinvest their results in accordance with the social purpose they pursue, as is the case of social economy enterprises** – as mentioned in the adopted Social Economy Action Plan¹: social economy enterprises must reinvest "most of the profits and surpluses to carry out activities in the interest of members/users ("collective interest") or society at large ("general interest") "

The obligation by law to reinvest most of their profits in the activity they carry out differentiates them from other enterprises and justifies a tailored treatment in accordance with their management models when receiving aid for social economy enterprises that provide SGEIs. Moreover, aid to social economy enterprises generates a higher multiplier effect than that obtained by other economic operators. Indeed, given that their main goal is not the maximization of profits for distribution among investors, and that these profits are mostly reinvested in the activity itself, social economy enterprises have a greater social impact in terms of quality employment, development of territories and social cohesion at the local level (see OECD, 2021)².

Moreover, WISEs operate on the local and regional level meaning their impact on EU internal trade is very limited or non-existent. Hence, introducing more flexibility based on measures that reflect their true nature would be welcomed.

2) Single undertaking

ENSIE does not consider it appropriate for SGEI to take over the concept of "single undertaking" (art. 2, §2) from the general de minimis Regulation. There is evidence that Work Integration Social Enterprises (WISEs) are frequently founded and/or sustained by another enterprise that has a majority of capital or the shareholders' or members' voting rights. However, in reality they are operating as separate enterprises. Therefore, a need for more flexibility for social enterprises and

¹ <https://www.socialeconomy.eu.org/wp-content/uploads/2021/12/Building-an-economy-that-works-for-people-an-action-plan-for-the-social-economy.pdf>

² OECD Local Economic and Employment Development (LEED) Papers. "Legal frameworks for the social and solidarity economy"

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WISEs, better taking into account their reality of organisation and operation and thus perceiving them as separate undertakings

3) Cumulation

Art. 5(2) of the Draft Regulation proposes that SGEI and general de minimis aid may only be cumulated for one enterprise up to the maximum amount applicable under the draft SGEI de minimis Regulation in three fiscal years (i.e., up to 650,000€). ENSIE suggests a reformulation to allow that the respective de minimis ceilings of the general de minimis Regulation and the SGEI de minimis Regulation can be combined. The scope for investment by social economy actors should be as broad as permitted to comply with the “competitive neutrality” – which is defined by the general and SGEI de minimis thresholds respectively.

4) Mandatory register

ENSIE supports the possible inclusion of a mandatory register for stakeholders and Member States, as proposed in the general de minimis Regulation. This would strengthen transparency and would introduce a uniform system of monitoring.

5) Further awareness raising needs

At the same time ENSIE insists, as stated in its contribution to the European Action plan for the Social Economy (March 2021)³, to underline the complexity and the difficulties faced by local and regional public authorities to fully use this de minimis ceiling rule and the whole SGEI package. For this reason, ENSIE considers it necessary to launch accompanying and advisory measures to support public authorities, in addition to the already implemented measures such as the webinars.

Generally speaking, ENSIE supports Social Economy Europe’s demand to the EU institutions to develop a fiscal framework for the social economy that would address the unfair competition linked with the fact that social economy actors mainly rely on their own funds to grow.⁴

ENSIE is the European Network of Work Integration Social Enterprises (WISEs), which gathers 33 local, regional and national networks from 23 countries from the EU (Austria, Belgium, Croatia, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden and Spain) as well as Azerbaijan, Moldova, Serbia and Ukraine.

³https://www.ensie.org/Portals/ensie/OpenContent/Files/11728/ENSIE_Position_on_the_EU_Action_Plan_for_the_Social_Economy_EN.pdf

⁴ Social Economy Europe position on the upcoming Council Recommendation:
https://www.socialeconomy.eu.org/wp-content/uploads/2022/12/SEE_Towards-a-Council-Recommendation.pdf

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Work Integration Social Enterprises (WISEs) strive for more inclusive and integrated forms of employment at European level. WISEs are defined by three identifying pillars: they are enterprises whose main objective is the social and professional integration of disadvantaged people; they are at the core of the economic system; they present a strong pedagogical dimension.



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