



*Employers entrusted to deliver
Sustainability Growth Innovation*

Position Paper

SGEI de minimis Regulation

1 June 2023

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SGI Europe Feedback on the SGEI *de minimis* Regulation

As an employers' organisation and an EU social partner, SGI Europe represents providers and employers of services of general interest. Our members are active in sectors such as energy, healthcare, housing, waste management, water sector, social services, ...

As the EU state aid rules play a crucial role in enabling the provision of services of general economic interest, the importance of SGEI *de minimis* Regulation is significant to our membership. SGEIs are instrumental in addressing market failure and contributing to the creation of fair living conditions and achieving economic, social and territorial cohesion as enshrined in Article 174 TFEU. In that context, and as stated in the EU primary law, reducing disparities between territories and people must also be taken into account in the present context of state aid law.

SGI Europe welcomes the opportunity to respond to the draft text SGEI *de minimis* Regulation. The revision is timely, not only in the context of its expiry by the end of 2023, but also in the context of volatile energy prices and high inflation. We appreciate the efforts by the Commission to adjust the SGEI *de minimis* Regulation, which goes in the right direction. However, SGI Europe suggests some improvements regarding the threshold, definitions and the introduction of the mandatory register.

Regarding the proposed threshold

In the draft text, the European Commission proposes increasing the threshold below which any aid granted is considered not to qualify as state aid, and to increase from EUR 500 000 to EUR 650 000 in order to reflect inflation. Whilst welcoming this ambition, SGI Europe points out that even without the inflation, the ceiling was too low. SGI Europe's recommendation at the time was to increase it to EUR 800 000. Therefore, taking fully into account the scale of the increase in prices and the already existing needs before inflation, SGI Europe proposes a significantly higher threshold of EUR 1 000 000. As the threshold remained unchanged since the introduction of the SGEI *de minimis* Regulation in 2012, in order to better mirror the inflation since then and anticipate the future, SGI Europe suggests increasing the threshold to EUR 1 000 000.

Services of general economic interest are often provided by local public service enterprises, meaning that they have a strong local character and thus have no or only negligible negative effects on the internal market and EU cross-border trade. In this regard, granting compensation for services of general interest does not fulfil all the criteria for qualifying as state aid.

Alternatively, should the ceiling remain at EUR 650 000, SGI Europe suggests increasing the flexibility regarding the threshold. In light of the current period of (very) high inflation, it would be appropriate not to wait until 2030 to review and index the ceiling amount.

Regarding the definitions

We welcome an adaptation of the terminology to the general *de minimis* regulation, as long as it leads to greater legal certainty and does not have a restrictive effect. SGI Europe in particular calls for improving legal certainty regarding the most complex concepts in the state aid regulatory framework, especially for those that are at the heart of the definition of the services of general interest, such as the distinction between economic/non-economic activity. Further clarification and guidance regarding the fulfilment of this constitutive element of the notion of state aid is desired in order to avoid the a priori request of *de minimis* declaration by the funding authorities.

Regarding the mandatory register

Due to its complex and costly administration and the lack of clear added value, SGI Europe rejects the proposal to introduce a mandatory public register. SGI Europe is particularly concerned that mandatory disclosure of small amounts of aid without proper contextualisation could bring discredit and suspicion on providers of services of general interest, including those focusing on social profit. SGI Europe believes that already existing enterprise registers for beneficiaries fulfil their mission of improving transparency.