

LEGAL ALERT

INCREASE OF THE *DE MINIMIS* REGULATION AND THE *DE MINIMIS* REGULATION FOR SGEI EXEMPTION THRESHOLDS – STATE AID

I. Introduction

The European Commission has approved the new de minimis Regulation and the new de minimis Regulation for services of general economic interest, which repeal respectively [Regulation \(EU\) 1407/2013](#) and [Regulation \(EU\) 360/2012](#).

The new regulations enter into force on January 1, 2024 and were published in the Official Journal of the European Union on December 15, 2023:

- [Commission Regulation \(EU\) 2023/2831](#) on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (TFEU) to de minimis aid (*de minimis* Regulation); and
- [Commission Regulation \(EU\) 2023/2832](#) on the application of Articles 107 and 108 of the TFEU to de minimis aid granted to undertakings providing services of general economic interest (SGEI Regulation).

II. De minimis Regulation

In the case of the *de minimis* regulation, the following changes are highlighted:

- An increase to **EUR 300 000** in the ceiling for *de minimis* aid that a single company can receive per Member State over a **three-year period** (Article 3(2)), with the three-year period to be taken into account being assessed on a rolling basis. Thus, for each new grant of *de minimis* aid, the total amount of *de minimis* aid granted in the last three years to the beneficiary must be taken into account;
- A clarification that *de minimis* aid is granted at the moment when **the legal right to receive the aid is conferred on the undertaking** under the applicable national legal regime, regardless of the date of payment of the *de minimis* aid to the undertaking (Article 3(3));
- For reasons of legal certainty and in order to reduce the administrative burden, the regulation also establishes a clear and exhaustive list of criteria for determining the situations in which two or more undertakings in the same Member State are to be considered as a “**single undertaking**” (Article 2(2));
- The elimination of the exception that enshrined a lower threshold in the case of aid granted to undertakings performing road freight transport;
- The obligation for Member States to ensure that, as from January 1, 2026, information on *de minimis* aid granted is entered in a **central register** at national or European Union (EU) level, containing the following information: (i) the identification of the beneficiary; (ii) the amount of aid; (iii) the date of granting; (iv) the authority granting the aid; (v) the aid instrument; and (vi) the sector concerned based on the statistical classification of economic activities in the EU (“NACE classification”) (Article 6(1));
- The obligation for Member States to enter, from 1 January 2026, information in the central register on *de minimis* aid granted by any authority of the Member State concerned, within **20 working days** of the granting of the aid (Article 6(2)); and
- The obligation for Member States to grant new *de minimis* aid in accordance with the Regulation only after having verified that, following such a grant, the total amount of *de minimis* aid granted to the undertaking concerned does not reach a level that exceeds the applicable ceiling identified above (Article 6(4)).

III. SGEI Regulation

In the case of the SGEI Regulation – which, as a rule, is limited to companies that provide, within the meaning of Article 106(2) of the TFEU, an economic activity with specific characteristics in relation to other activities of economic life, considered essential and in the public interest, based on the principles of universality, equality, solidarity, quality, continuity and adaptability, and the exercise of which contributes to the sustainable development and economic and social cohesion of the Community – the following changes are highlighted:

- An increase to **EUR 750 000** in the ceiling for *de minimis* aid for services of general economic interest that a single undertaking may receive per Member State over a three-year period, the **three-year period** to be taken into account being assessed on a rolling basis. Thus, for each new grant of *de minimis* aid, the total amount of *de minimis* aid granted in the previous three years must be taken into account (Article 3(2));
- The clarification that *de minimis* aid is granted when the **legal right to receive the aid is conferred on the company** under the applicable national legal regime, regardless of when the aid is paid to the company (Article 3(3));
- The clarification of the criteria for determining the situations in which two or more undertakings in the same Member State are to be considered as a “**single undertaking**” (Article 2(2));
- The obligation for Member States to ensure that, as from January 1, 2026, information on *de minimis* aid granted is entered in a central register at national or EU level, containing the following information: (i) the identification of the beneficiary; (ii) the amount of aid; (iii) the date of granting; (iv) the authority granting the aid; (v) the aid instrument; and (vi) the sector concerned based on the statistical classification of economic activities in the EU (“NACE classification”) (Article 6(1));
- The obligation for Member States to enter, as of January 1, 2026, information in the central register on *de minimis* aid granted by any authority of the Member State concerned, within **20 working days** following the grant of the aid (Article 6(2)); and

- The obligation for Member States to grant new *de minimis* aid in accordance with the regulation only after they have verified that, following such a grant, the total amount of *de minimis* aid granted to the undertaking concerned does not reach a level that exceeds the applicable ceiling identified above (Article 6(4)).

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