



## FACTSHEET

# De minimis support in Interreg Baltic Sea Region

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## INTRODUCTION

An undertaking that receives support from public funding sources, such as Interreg Baltic Sea Region, may gain an advantage over its competitors through this support. Furthermore, the support can distort competition and affect trade between Member States. If this is the case, State aid is present.

The EU Treaty wants to prevent such effects on the market and therefore generally prohibits State aid. However, in some circumstances such support is necessary for a well-functioning and equitable economy. Therefore, the Treaty leaves room for a number of measures through which State aid can be made compatible with the rules. The Programme uses two of these measures, namely the General Block Exemption Regulation and *de minimis*. The Programme Manual lays down the State approach and procedures of the Programme. This leaflet aims at providing additional information about the *de minimis* Regulation.

**Interreg Baltic Sea Region Managing Authority/ Joint Secretariat**

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## ● SUMMARY

The *de minimis* principle allows project partners to receive comparatively small amounts of support without being caught by the State aid rules. This is because the European Commission assumes that small amounts of support do not have a significant impact on competition and trade in the European Economic Area (EEA). In general, a single undertaking can receive *de minimis* support of up to EUR 200,000 per Member State in a three-year period. In Interreg Baltic Sea Region, Germany is the Member State granting *de minimis* aid to project partners. Interreg Baltic Sea Region applies the *de minimis* facility only in exceptional cases and based on the request of the project partner concerned.

## ● LEGAL BASIS

COMMISSION REGULATION (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid:

[http://ec.europa.eu/competition/state\\_aid/legislation/de\\_minimis\\_regulation\\_en.pdf](http://ec.europa.eu/competition/state_aid/legislation/de_minimis_regulation_en.pdf)

### Please note

This factsheet is a summary of the key points of Regulation 1407/2013 and hereinafter referred to as “the Regulation” but is not a substitute for the full text of the Regulation, to which reference should be made.

## ● GEOGRAPHICAL COVERAGE

In Interreg Baltic Sea Region the GBER applies to the EU Member States covered by the Programme and Norway.

## ● AMOUNTS OF SUPPORT

The total **amount** of *de minimis* aid per Member State (i.e. Germany in case of Interreg Baltic Sea Region) to a single undertaking is:

- EUR 200,000 over a period of three fiscal years
- EUR 100,000 over a period of three fiscal years for single undertakings performing road freight transport for hire or reward (as noted above, the aid must not be used to acquire road freight transport vehicles)

*De minimis* aid is deemed to be granted when the legal right to receive the aid is conferred, irrespective of the date of payment. In Interreg Baltic Sea Region this is understood as the date when the last contracting party signs the subsidy contract. The period of three fiscal years is determined with reference to the fiscal year of the undertaking.

Where the relevant ceiling would be exceeded by the grant of new *de minimis* aid, none of the new aid may benefit from the *de minimis* Regulation. This means that if an application is received



which would result in the ceiling being exceeded, *de minimis* support cannot be awarded in whole or in part, even if a partial award would not result in the ceiling being exceeded.

## ● SINGLE UNDERTAKINGS

The ceiling on *de minimis* aid is calculated per single undertaking per Member State. The intention here is that multiple subsidiaries of the same firm in different Member States could each receive *de minimis* aid without the ceiling being breached. Conversely subsidiaries of the same firm could not each receive *de minimis* support from the same Member State. However, there has been some debate about the applicability of 'per Member State' in the context of Interreg programmes. In Interreg Baltic Sea Region only the Member State in which the MA/JS is located (i.e. Germany) will be used as the basis for assessing eligibility for *de minimis* support.

The notion of a 'single undertaking' includes all enterprises having at least one of the following relationships with one another:

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**one enterprise has a majority of the shareholders' or members' voting rights in another enterprises**

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**one enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise**

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**one enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association**

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**one enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of the enterprise, a majority of shareholders' or members voting rights in that enterprises.**

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Although the Regulation refers to 'enterprises', in practice, this encompasses any entity engaged in an economic activity.

The above criteria are intended to ensure that a group of linked entities is treated as a single undertaking for the purposes of the *de minimis* rule. On the other hand, it is intended to ensure that entities which have no relationship with each other except for the fact that each of them has a direct link to the same public body or bodies are not treated as being linked to each other.

It can also be assumed that, for example, different departments of one university would be regarded as part of a single undertaking, i.e. the university.

In calculating the amount of aid, special care must be taken where the recipient has been the subject of a merger or a split from another organisation. In the case of mergers and acquisitions, all prior *de minimis* aid is considered in determining whether new *de minimis* support can be paid. *De minimis* aid lawfully granted before a merger or acquisition shall remain lawful. If an



undertaking splits into two or more separate undertakings, *de minimis* support granted before the split shall be allocated to the undertaking that benefitted from it. This is in principle the undertaking taking on the activities for which *de minimis* support was used. If this split is not possible, *de minimis support* will be allocated proportionately on the basis of the book value of the equity capital of the new undertaking at the date of the split.

## ● EXCLUSIONS

Interreg Baltic Sea Region is not allowed to grant the following types of aid under the *de minimis* Regulation:

- Aid to undertakings active in the fishery and aquaculture sector, as covered by Council Regulation (EC) No 104/2000<sup>1</sup>
- Aid to undertakings active in the primary agricultural production<sup>2</sup>
- Support for acquiring road freight transport vehicles by undertakings in the road haulage business.

Additionally, the Programme ensures that partners do not receive the other types of aid that are excluded by the *de minimis* Regulation in addition to the ones listed above.

## ● ENSURING COMPLIANCE

When granting a *de minimis* support to a particular undertaking, the awarding body must check that the support is not excluded by the *de minimis* Regulation. Furthermore, it must check that the new support will not raise the total amount of *de minimis* support received by that undertaking during the relevant three-year period above the EUR 200,000 (or EUR 100,000, as applicable) ceiling. This can be done in two ways:

- either the Member State has a central register of *de minimis* support containing complete information on all *de minimis* support granted by any authority within the Member State (within Interreg Baltic Sea Region, Estonia, Lithuania and Poland operate such systems), or
- the enterprise is explicitly informed about the *de minimis* character of the support and the Member State obtains from the enterprise concerned a self-declaration about other *de minimis* aid received during the two previous fiscal years and the current fiscal year.

In Interreg Baltic Sea Region undertakings (i.e. applicants that carry out State aid relevant activities) will have to complete a ***de minimis* declaration** concerning the amount of *de minimis* support which they have already received from Germany in the preceding three years.

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<sup>1</sup> Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products (OJ L 17, 21.1.2000, p. 22).

<sup>2</sup> 'agricultural products' means products listed in Annex I to the Treaty, with the exception of fishery and aquaculture products covered by Regulation (EC) No 104/2000 (e.g. animals, vegetables, fruits)



## ● MONITORING

Where it is proposed to grant *de minimis* support, the recipient must be informed in writing of the amount and the *de minimis* character of the support – this ensures that the recipient is in a position to comply with future self-declarations on *de minimis* support if required.

In Interreg Baltic Sea Region the Managing Authority will provide this information to each recipient via the ***de minimis* award letter** after signature of the subsidy contract.

Information about the application of the Regulation must be compiled and recorded. This must contain all the information needed to show that the conditions of the regulation have been met. Records of individual *de minimis* support must be maintained for 10 fiscal years from the date on which the aid was granted. This information must be available on request from the Commission within 20 working days, but does not require to be actively reported to the Commission otherwise.

## ● ADMINISTRATIVE ARRANGEMENTS

If an applicant wishes support on the basis of the *de minimis* Regulation, the applicant will have to request this after project approval and during the project's contracting phase. It will have to submit a formal *de minimis* declaration regarding past *de minimis* support.

This formal declaration is subject to a plausibility check by the Managing Authority.

In case of a positive plausibility check, the Programme can grant *de minimis* support. After signature of the subsidy contract, the Managing Authority will issue *de minimis* award letters for each recipient of *de minimis* support. These letters inform about the amount and the *de minimis* character of the support.

The Managing Authority ensures compliance with the monitoring and administrative arrangements of the *de minimis* Regulation. Project partners receiving *de minimis* aid have to maintain relevant documentation as outlined in the Programme Manual.

## ● OTHER RELEVANT DOCUMENTS

FACTSHEET/ The General Block Exemption Regulation (GBER) in Interreg Baltic Sea Region

*De minimis* declaration

*De minimis* award letter