



Social  
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Europe



Social Services Europe

## FINAL Joint Response (1 June 2023) of ENSIE, RREUSE, SEE and SSE to the EC Call for Evidence on the revision of the SGEI de minimis Regulation

### INTRODUCTION

In addition to individual submissions by all co-signatories of this joint response, European Network for Social Integration Enterprises ([ENSIE](#)), [RREUSE](#), Social Economy Europe ([SEE](#)) and Social Services Europe ([SSE](#)) wish to communicate to the Commission Services four main points and proposals they share and wish to see better taken up in the future SGEI de minimis Regulation. This joint reply should help to better bring in the perspective, concerns and proposals by key EU-level networks of not-for-profit/social economy providers of social services of general interest (SSGI).

ENSIE, RREUSE, SEE and SSE structure their response in line with the three main proposed changes in the DRAFT SGEI de minimis Regulation of 19 April 2023, as set out in the Explanatory Note issued by the Commission Services on the same day.

#### **1) Ceiling of SGEI de minimis Regulation**

The co-signatories of this joint response would like to see a significant adjustment of the Services of General Economic Interest (SGEI) de minimis ceiling currently standing at 500,000 € over any period of three fiscal years in the SGEI de minimis Regulation. Such a more substantial increase is needed to account for increased prices for services and goods, for inflation and for the current and future investments needs of social service providers, of work integration social enterprises and of social enterprises active in the circular economy. Moreover, this threshold should be revised on a rolling basis, introducing a mechanism to monitor and adjust the threshold regularly to ensure an accurate reflection of the economic situation. Mechanisms already in place at MS level could also be used.

Apart from the need to increase the general threshold in light of inflation a second and higher threshold should be introduced for those undertakings which are obliged, according to their statutes and by law, to reinvest their profit in accordance with the social purpose they pursue, as is the case of social economy enterprises. In other words, their business models are not pursuing profit but social and environmental aims, meaning they are fulfilling a task for the general interest.

These investments are in line with EU-level policy objectives, such as better social inclusion and more inclusive labour markets, better accessibility, fostering a circular economy, greening of our society in line with climate change obligations, shift to digital, smart and inclusive services, but also an increasing societal need for social services due to changing demographics such as an aging population. 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 maximisation 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).<sup>1</sup>

The specificities of the sectors of not-for-profit/social economy providers, their local dimension and an improved practice-orientation of EU State Aid rules need to be reflected in the increased ceiling. They all provide SSGI (or more generally speaking: SGEI). Most of the service providers are undertakings - as defined by EU State Aid Legislation and confirmed by ECJ rulings - with a limited profitability nature. As mentioned in the Social Economy Action Plan (SEAP)<sup>2</sup>, they are obliged, according to their statutes and by law, to reinvest possible profits in accordance with the statutory objectives and/or the social purpose they pursue. Meaning that they operate on the local and regional level and their impact on EU internal trade is very limited or non-existent.<sup>3</sup>

The co-signatories of this joint response would like to point to derogations to state aid rules in recent years from amending the Temporary Crisis Framework in relation to the COVID 19 pandemic (State Aid COVID Temporary Framework), to countering the risk of de-industrialisation of green industries following the US Inflation Reduction Act (Temporary Crisis and Transition Framework) and new amendments in the GBER. This shows that State Aid derogations are possible to support vital EU policy objectives. The co-signatories of this joint response believe the current context of *permacrisis*, including the deterioration of living standards due to inflation and higher costs of living notably for the most vulnerable, calls for a better consideration of the social dimension of public investments. For instance, earlier amendments for GBER for the circular economy (Art. 47) only referred to the environmental dimension of the economic activities without guaranteeing a level playing field for social providers/social economy actors active in the green transition.

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€). The co-signatories of this response propose a reformulation to allow that the respective de minimis ceilings of the general de minimis Regulation and the SGEI de minimis Regulation can be added up. 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.

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<sup>1</sup> OECD Local Economic and Employment Development (LEED) Papers “Legal frameworks for the social and solidarity economy”

<sup>2</sup> European Commission (2021), Building an economy that works for people: an action plan for the social economy p. 5 (available [here](#)).

<sup>3</sup> RREUSE highlights exemplary activities of its network of social enterprises active in the circular economy which include setting up training programmes to extend the life cycle of products and promote inclusive green skills (e.g., workshops for furniture refurbishing, repair of household appliances, upcycling of garments, and so forth) thus representing local activities that do not risk hindering the well-functioning of the EU internal market. ENSIE members highlight that the activities of WISEs take place at the local level and entail no cross-border activities.

## **2) Alignment of certain concepts and definitions**

The co-signatories of this joint response suggest adding a point d) to article 2, 2.:

"Social economy enterprises": enterprises with the following shared principles and characteristics, as set out in the opinion of the European Economic and Social Committee on 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 and social purposes over profit;
- Reinvestment of all or most of the profits in activities that are in the collective interest or which benefit members and users, in the context of the general interest;
  - For the purposes of these Rules, this is considered to be a reinvestment of at least 80% of its profits for the financial year.
- Democratic and participatory governance

These are enterprises providing services of general economic interest, defined as social economy in the legal frameworks of the Member States or in the legal form of a cooperative, mutual society, association or foundation or which constitute social enterprises in accordance with the legislation of the Member States.

The co-signatories of this joint response in addition comment on the three concepts "single enterprise", "reasonable profit margin" and "market failure":

- "Single enterprise": The co-signatories of this joint response do not consider it appropriate for SGEI and in particular for social services of general interest (SSGI) to take over this concept from the general de minimis Regulation. In the area of SSGI the focus is on the important role and contribution of those services provided for the social, territorial and also economic cohesion, the social inclusion and the pursuit of objectives of social, health, employment and (social) housing policies. The "single enterprise" definition of the general de minimis Regulation does not reflect the nature of social enterprises.
- "Reasonable profit margin": The co-signatories of this joint response agree with the proposal made in the [EESC Opinion "Public subsidies/health and social services of general economic interest"](#) (INT/1016), p. 6, 3.9., that in the "reasonable profit margin" definition, *"a distinction should be made in favour of social economy enterprises, which are bound to reinvest the economic margins generated into their own statutory activities, thereby creating a virtuous economic effect which should be encouraged and supported."*
- "Market failure": The co-signatories of this joint response are in line with the [EESC Opinion "Public subsidies/health and social services of general economic interest"](#) (INT/1016), p. 7, 3.13., which notes that *"a market failure can be flagged not only in the event that a given service is not delivered by the market, but also and especially when the market is not able*

*to deliver adequate quality, as well as fair and affordable access for everybody to the service, with adverse consequences on social cohesion and equal opportunities” and would like to see the EC to take this reality into account when revising the wording of the SGEI de minimis Regulation.*

### **3) Strengthening of the transparency requirements**

Improving the transparency requirements is a joint objective of the EC all co-signatories of this joint response agree with. They must be formulated as simply as possible to allow for a non-bureaucratic application of both de minimis regulations to enable speedy and easy checking at all levels of administration.

They support the proposal for a mandatory public register to improve the transparency on the use of state aid in all EU MS. They would prefer such a register at the national level in order to be able to use nationally applicable legislation and regulations in case of erroneous entries – which should allow for a speedy and easy way for deletions – or data protection issues.

### **4) Ensuring effective implementation of the Regulation**

The co-signatories of this joint response would like the EC to continue providing capacity-building measures for public officials at local, regional and national level, such as training to better understand and apply the state aid rules in a way to tap their full potential to support social economy organisations including social enterprises. The possibility of the higher threshold related to the status of SGEI as SSGI is based on the entities' status as providers of services of general economic interest, which is a decision in the hands of national authorities.

At the moment, public authorities do not always use this possibility to its full potential, as also mentioned in the SEAP in relation to one specific initiative, the mutual learning workshops for representatives of relevant public authorities and governments. Hence, in addition to the measures already foreseen, further interventions for awareness raising, capacity building and training are crucial.