

## **REGULATION on de minimis aid**

The present regulation partially transposes the provisions of the Regulation (EC) No1998/2006 of Commission of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid, published in the Official Journal of European Union No L379/5 of 28 December 2006.

### **Section 1 General provisions**

- 1.** This Regulation is drawn up in order to implement the Law on State Aid No. 139 of 15.06.2012 (hereinafter - the Law) and to regulate the calculation of the three-year period provided by law, the possibility of receiving aid under a scheme of de minimis aid, assessment of de minimis aid received in any form, manner of granting, recording, monitoring and reporting of de minimis aid.
- 2.** State support for a relatively small amount is deemed not to affect competition between economic agents and neither between the international treaties to which Moldova is a party and shall be exempt from the notification obligation.
- 3.** In the meaning of Article 3 of the Law, de minimis aid shall be considered aid that has an equivalent value below 2,000,000 lei per beneficiary, granted to the same beneficiary within a maximum period of three years, regardless of its form and the objective pursued on condition that it is not linked to export activities.
- 4.** The present Regulation is applied on the aid granted in all sectors, except:
  - a) aid granted to undertakings which carry out their work in the field of primary production of agricultural products;
  - b) aid granted to undertakings which carry out their work in the field of processing and marketing of agricultural products in the following cases:
    - when the amount of aid is determined on the basis of price or quantity of such products purchased from primary producers or put on the market by these undertakings;
    - when aid is conditional on being partly or entirely passed on to primary producers;
  - c) aid intended for the activities related to export, namely aid directly linked to the quantities exported, aid intended for the establishment and operation of a distribution network or to other current expenditure linked to the export activity. Aid intended for the covering cost of participating in trade fairs, or of studies or consultancy services needed for the launch of a new or existing product on a new market are not normally, aid intended for the activities related to export;
  - d) aid granted to undertakings in difficulty.

5. Verification of compliance with the de minimis threshold will be the total amount of aid under this threshold and will not affect the beneficiary's ability to obtain other aid within the aid schemes approved by the Competition Council.

6. Amounts of aid granted as the aid in limits of the de minimis threshold stipulated in the article 3 of the Law, may come from any public authority or legal entities (providers) which grants de minimis aid under the present Regulation.

7. This regulation specifies the requirements of public authorities and / or legal entities that provide aid below the de minimis threshold on their record keeping, so as to be able to provide the information required by the Competition Council in order to comply with the law.

8. In the meaning of the present Regulation the definitions which are given below will have the following meaning:

**agricultural products** - means the products listed in Annex 1 to the Regulation on the notification form, the procedure for examining and taking decisions on state aid;

**processing of agricultural products** - means an operation on an agricultural product resulting from such an agricultural product, except on farm activities necessary for preparing an animal or plant product for the first sale;

**marketing of agricultural products** - means holding or displaying for sale, offering for sale, delivery or any other form of marketing agricultural products, except the first sale by a primary producer to resellers or processors and any activity consisting in preparing a product for the first sale. A sale by a primary producer to final consumers shall be considered as marketing if it takes place in separate spaces reserved for that purpose;

**transparent de minimis aid** - aid category in which it is possible to determine the amount of its ex ante without need to undertake a risk assessment;

**de minimis aid scheme** - any act under which aid may be granted to beneficiaries defined in the act in a general and abstract manner, without the need for additional measures implementing or any act under which aid is not linked to a specific project may be granted to one or more beneficiaries for an indefinite period of time and / or in an amount determined in which aid is granted to one or more beneficiaries in a maximum period of three years and shall not exceed threshold stipulated by the provisions in force;

**beneficiary of de minimis aid** - any natural or legal person independent, engaged in an economic activity consisting in offering goods or services on a market, which receives support in a period of up to three years and shall not exceed the threshold established by law in force.

## Section 2

### Method of determination of de minimis aid

9. The 3-year period referred to in article 3 of the Law begins to run from the date the beneficiary receives first aid below the de minimis threshold. The years which

have to be taken into account for this purpose are the fiscal years, established under tax laws.

**10.** The relevant period of three years should be assessed on an ongoing basis so that, for each new grant of de minimis aid, it has to be determined the total amount of de minimis aid granted in the fiscal year concerned, and for the past two fiscal years.

**11.** The total amount of de minimis aid granted to an undertaking shall not exceed 2,000,000 lei for a period of 3 consecutive fiscal years. This ceiling shall apply indifferent of the form of de minimis aid, the objective pursued and regardless of whether the aid is from internal or external sources.

**12.** Aid granted to an undertaking, within a period of up to 3 consecutive fiscal years, I a total amount of 2,000,000 lei per beneficiary is deemed to be authorized and is not subject to the notification.

**13.** To be exempt from the obligation of notification, de minimis aid must meet the following conditions:

- a) the amount of de minimis aid granted to an undertaking within a period of 3 consecutive years does not exceed the threshold established by law;
- b) be easily quantifiable;
- c) be transparent under the provisions of this Regulation.

**14.** If the total amount of aid granted to a beneficiary exceeds the ceiling of 2,000,000 lei, that aid amount cannot benefit from the provisions of this Regulation, neither in case of any part of the amount which does not exceed the ceiling. In this case, the application of this Regulation may be invoked either at the time of grant or thereafter.

**15.** Ceiling of de minimis aid cannot be divided into smaller parts in order to fall within the scope of the present Regulation.

**16.** The received aid in monetary form must be calculated as a sum which is paid only once, even if, in reality, the payment is made in several installments.

**17.** Ceiling laid down in Article 3 of the Law is expressed in monetary equivalent. All figures used express the gross value, calculated before any tax deduction, if aid is subject to such a tax regime. When aid is granted in another form than a grant, the aid amount is the equivalent of gross subsidy of the aid.

**18.** The aids which are going to be paid in a single installment or in several installments shall be discounted to its value at the time of grant.

**19.** Applicable discount rate is the base rate (rounded up to the next whole percent), established by the National Bank of Moldova in November of the previous management year, applied to monetary policy operations in the short term, increased by 5 points.

**20.** Evaluation of monetary equivalent of de minimis aid granted in various forms will be made in accordance with the relevant provisions set out in Section 10 of the Regulation on the notification form, the procedure for examining and taking decisions on state aid.

**21.** If the aid is not given in monetary form, in order to verify compliance with the de minimis threshold , its equivalent will be calculated in lei MDL.

**22.** This Regulation shall apply only to aid for which it is possible to calculate precisely the gross subsidy equivalent ex ante without the need to undertake a risk assessment, in particular:

a) aid comprised in loans are considered as transparent de minimis aid when the aid quantification is done being based on the market rate of interest applicable at the time of grant.

b) aid consisting in capital contributions are considered transparent de minimis aid, where the total amount of capital contributions for the public sector is lower than the minimum threshold.

**23.** At the request of the aid provider and / or initiator, the Competition Council gives specialized technical assistance in developing or modifying a de minimis aid scheme.

**24.** When a aid provider has doubts concerning the correctness of the calculation assistance monetary equivalent of the aid, he may appeal to the Competition Council for further clarification.

### **Section 3**

#### **De minimis aid scheme**

**25.** Granting de minimis aid to defined beneficiaries in general and abstract manner, without the need for additional implementation measures is made with the help of a scheme of de minimis aid fulfilling the criteria laid down in the present Regulation.

**26.** Minimis aid scheme is not a subject of the notification to the Competition Council, in accordance with article 8 of the Law.

**27.** De minimia aid scheme will comprise the following elements:

a) the title of de minimia aid scheme;

b) scheme purpose;

c) legal basis;

d) scope;

e) definitions (if it is appropriate);

f) eligibility conditions for activities and beneficiaries;

g) the granting conditions of de minimis aid;

h) planned expenditures under the scheme;

i) scheme duration period;

j) scheme budget;

k) scheme implementation methods;

l) effects and benefits;

m) rules on recording, reporting and monitoring de minimis aid.

**28.** In case of a scheme with the indefinite duration period, however it will be estimated the application of the de minimis scheme. If the period is more than six years, it must be shown that for a long time it is necessary for achieving minimis aid scheme.

**29.** If the de minimis aid granted to different undertakings on the same scheme and are granted different amounts of individual aid to the concerned undertakings, the aid provider can inform each beneficiary undertaking of the prospective amount of

the aid and due to the its character of *de minimis*, communicating to undertakings a fixed amount corresponding to the maximum value of aid which is to be granted under the scheme.

**30.** The provider is responsible for checkout of the use of *de minimis* aid granted, which is in progress and to has measures in case which are called for the case of the conditions breach imposed by the scheme and / or national legislation applicable at that time.

**31.** In order to ensure transparency of aid granting, the provider will place *de minimis* aid scheme on the official website and through other means established by law, within 15 days of the adoption scheme.

**32.** The provider shall inform the Competition Council about *de minimis* aid scheme within 20 days of its adoption.

## **Section 4**

### **De minimis aid monitoring**

**33.** Where the provider intends to grant *de minimis* aid to an undertaking, it shall inform that undertaking in writing of the prospective amount of the aid and of its *de minimis* character, making express reference to this Regulation, and citing its provisions and reference in the legal basis for the aid granting.

**34.** Aid beneficiaries will check if the aid they are about to receive do not contravene the law, namely that if the total amount of aid does not exceed the equivalent of 2 million lei in a period of 3 fiscal years in a row, otherwise, they may be forced to repay the aid.

**35.** The provider which grants aid must obtain from the beneficiary an authentic statement in written or electronic form, on the amount of *de minimis* aid received earlier and verify that the new aid will not exceed the cumulative total of the previous *de minimis* aid received by the group of undertakings to which it belongs to, an amount which exceeds the threshold of 2,000,000 lei in the last two fiscal years and the current fiscal year.

**36.** The provider grants *de minimis* aid only after he have obtained the declaration and verified that this will not raise the total amount of *de minimis* aid received by the undertaking during the period that covers the concerned fiscal year, and also the last two fiscal years, over the threshold established in Article 3 of Law.

**37.** Beneficiaries will keep track of *de minimis* aid received, showing the total amount of *de minimis* aid received, spread over years, on the providers, by the objectives, information on the form of *de minimis* aid and also legal basis under which they were received.

**38.** The providers will ensure the organization and keeping records of *de minimis* aid, so as it will be possible to identify the beneficiary, amount, grant time, the grant form, origin, duration and method of calculation of aid received, and other useful information relating to the granting of such aid or information which demonstrates the compliance with the conditions laid down in this Regulation.

**39.** The aid providers will help ensure the authenticity and integrity of data on the application of this Regulation.

**40.** Information regarding individual de minimis aid shall be kept by the beneficiary and provider for 6 fiscal years from the date of receipt / grant aid.

**41.** Information on de minimis aid scheme shall be kept by the provider and the beneficiary in part related to the de minimis aid received for a period of six fiscal years from the date it was received / granted the last individual aid under the de minimis aid scheme.

**42.** The providers de minimis aid granting shall submit to the Competition Council, until March 31, information on de minimis aid granted last year. The information that is going to be presented according to Form reporting of de minimis aid in the Annex to this Regulation.

## **Section 5**

### **Request for information**

**43.** At the request of the Competition Council, the provider concerned shall provide within a period of 20 working days, for assessing whether the conditions of this Regulation have been complied with.

This period may be extended for a similar period by the Competition Council, on a reasonable request submitted by the provider. For failure to submit information within the deadline, the provider will respond according to the Code of Administrative Offences of the Republic of Moldova No. 218-XVI of 24.10.2008.

**44.** If doubts arise about the authenticity and completeness of data provided by the provider, the Competition Council may request additional data and information and, if it appropriate, make spot checks.

**45.** Information received by the Competition Council on the de minimis aid granting shall be included in the State Aid Register.

## **Section 6**

### **Final Provisions**

**46.** The provisions of this Regulation are applied in compliance to the provisions of the Competition Law no.183 of 11 July 2012, Law on State Aid No. 139 of 15 June 2012 and in accordance with the regulations adopted by the Plenum of the Competition Council.

**FORM**  
**on reporting of de minimis aid granted in year \_\_\_\_\_**

De minimis aid provider : _____
Address _____
Phone _____
Fax _____
IDNP _____
Contact Person _____

Fulfill each form for each de minimis aid, de minimis aid scheme, mentioning the duration of the scheme. Indicate all de minimis aids granted to the Republic of Moldova, except for those that are not applied under the Regulation on de minimis aid.

Suppliers shall indicate in form the reporting period of de minimis aid granted and corrections found for the last two consecutive fiscal years.

Where, with a piece of legislation are being promoted several de minimis aid schemes, for each scheme must be fulfilled its own form. If the in this piece of legislation, which promotes de minimis aid schemes, are provided the aids which have different ways of granting, the form must be fulfilled for each aid.

**1. Title of aid:**

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(Title of aid includes a brief description of it.)

**2. Legal basis:**

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(The legal basis includes both legislative act, regulatory or administrative through which was minimis aid granted, as well as documents containing provisions for its implementation. Must be mentioned the acts by which it was renewed, extended or amended, as well as the pieces of legislation through which were made specific allocations within a scheme, as it is appropriate.)

### **3. Date of termination aid granting**

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(List only aids, which granting is ceased. Indicate the date on which it was ceased granting or for which granting aid was stopped.)

### **4. Form of aid granting:**

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(Indicate the form of aid: grants and / or subsidies, debt cancellation or acquisition, exemptions, reductions, postponements or rescheduling the payment of taxes, granting of loans with preferential interest rates, etc.)

### **5. Form description de minimis aid granting**

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(Please specify the form of aid granting. Specify the form in which aid is provided to the beneficiary. For example, in case of loans with preferential interest is provided including details of how the loan is guaranteed. In case of tax incentives state whether they are partial or total exemption from tax or fee reduced taxes or fees, reducing the taxable object , postponements of the deadline for payment of taxes or duties , scheduling of tax liability.)

### **6. The objectives of de minimis aid granting:**

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(In objective setting is considered motivation of adoption of the act regulatory / administrative which initiated this de minimis aid scheme and purpose followed) .

### **7. Origin of aid:**

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(To specify the origin of aid or grant from the state budget, state social insurance budget, local budgets and other sources.)

### **8. Type of aid :**

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(Indicate if it refers to a scheme of de minimis aid or aid granted outside the scheme)

### **9. Conditions for the grant:**

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(Indicate conditions – criteria, limits etc. – to grant specific allocations to businesses, aid beneficiaries, as provided for under the legal basis of de minimis aid scheme

### 10. Beneficiaries and amount of de minimis aid

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In cas of de minimis aid schemes shall be mentioned an amount of allocations specific / beneficiary.

No.	De minimis aid beneficiaries					de minimis Aid value – thousand lei, of which:					
	Name	IDNO	Locality	Municipality district	kind of activity CEAM	the year reporting ( t )		in year t-1		in year t-2	
						State funding	Foreign sources	State funding	Foreign sources	State funding	Foreign sources
0	1	2	3	4	5	6.1	6.2	7.1	7.2	8.1	8.2
TOTAL:											

[In columns 1-5 please specify all de minimis aid beneficiaries. For each please specify beneficiary and type of activity. If the de minimis aid is granted for other activity than the basic one, please specify the activity for which it was granted.

Column 6 indicate the amounts received as de minimis aid in that year without being added to the previous years. 6.1 Column specified amounts received from State (national budget, local, etc.) and 6.2 column specified amounts received from external funds.

In columns, 7 and 8 are written sums as de minimis aid amounts received granted in previous years, with possible corrections depending on the source, namely: state sources and / or external funds.

The amount of de minimis aid to be indicated in columns of 6.1 – 8.2 table will be established in accordance with Article 20 of the Regulation on de minimis aid.

### 11. The data on the mode of determining of the amount of de minimis aid:

(Provide the information used to determine the amount of aid, such as reference prices, reference interest for loans with preferential interest, the penalties for exemptions from taxes, etc., and when it is appropriate calculation formulas. Amounts specified for each of the forms in which the aid was granted.)

### 12. Other information and comments:

(To submit comments on the progress of aid granting – de minimis aid schemes or de minimis aid granted in installments).

**13. Statement**

To be certified by the person who fulfilled the form that both information and whether the documentation attached to the form is complete and correct.

Date and signature