



EUROPEAN COMMISSION

Competition DG

The Director General

21 MARS 2014

Brussels,
COMP A3/CG/2014/025222

Ms. Lyudmila Elkova

Vice-Minister
Ministry of Finance
Republic of Bulgaria
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Cc: Permanent Representation of
Bulgaria to the EU
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Subject: HT.368 – Questions on the application of Regulation 1407/2013 on de minimis aid

Dear Vice-Minister,

Thank you for your inquiry concerning the interpretation of the de minimis Regulation as regards the definition of the single undertaking and the application of safe harbours.

Let me first observe that the State Aid rules including the de minimis Regulation only apply to undertakings. An undertaking is defined as an entity engaged in an economic activity, regardless of its legal status and the way in which it is financed. Such an entity can be a natural or a legal person, but it has to be engaged in an economic activity, i.e. offering goods or services on a market. The answer to your first question therefore depends on whether the natural person/NGO carries out an economic activity and thus qualifies as an undertaking or not. If this is the case, the legal entities controlled by this natural person will be considered as a single undertaking. A mere shareholding by a natural person would normally not be considered as an economic activity.

I now reply to the factual situations presented by you in turn:

- 1) If for a given parent enterprise the conditions set out in Art. 2 (2) a-d are met with respect to its 12 subsidiaries, the entire group (parent plus 12 subsidiaries) shall qualify as a single undertaking.

- 2) Regarding cumulation of aid in the situation where the mother company is located in a different Member State than its subsidiaries, please note that, for reasons of practicability and administrative burden, the *de minimis* Regulation requires Member States only to check enterprises and *de minimis* amounts within their territory. It would therefore not be required (nor be possible in many cases) to determine the aid received by subsidiaries located in other Member States when deciding to grant *de minimis* aid to a mother company located in Bulgaria.
- 3) Concerning the application of the safe harbours conditions in Article 4 (3) of the *de minimis* Regulation for loans, the circumstances in letter a) are only applicable to the situation described in letter b). The condition set out in letter c) is self-standing.
- 4) Similar to the above, the circumstances of Article 4(6) letter a) shall only apply cumulatively with the circumstances in letter b). The conditions set out in letters c) and d) are self-standing.

I hope that the above answers your queries.

Yours faithfully,

A handwritten signature in black ink, consisting of a long horizontal stroke with a diagonal line crossing it from the top left to the bottom right.

Alexander ITALIANER