


Article 3(7) Reg. 1407/2013

▼ MS instructions for sending a NEW QUESTION to the European Commission:

1. **Page title:** Please insert the full Article reference (e.g. "Art. 1(4) a") and a short title (e.g. "Deggendorf principle")
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Article	<i>Article 3(7) Reg. 1407/2013</i>
	<i>de minimis aid ceiling</i>
	<i>SK</i>

▼ Question

According to Article 3(2) of the 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 (hereinafter as „Regulation No 1407/2013”) the total amount of *de minimis* aid granted per Member State to a single undertaking shall not exceed EUR 200 000 over any period of three fiscal years.

According to Article 3(7) of the Regulation No 1407/2013 where the relevant ceiling laid down in paragraph 2 would be exceeded by the grant of new *de minimis* aid, none of that new aid may benefit from this Regulation.

According to Article 3(4) of the Regulation No 1407/2013 *de minimis* aid shall be deemed granted at the moment the legal right to receive the aid is conferred on the undertaking under the applicable national legal regime irrespective of the date of payment of the *de minimis* aid to the undertaking.

Case:

When providing grants under EU co-funded programs the applicant submits a project proposal. The evaluation and approval process lasts over a longer time period (often exceeding 6 months). After approval of the project proposal the provider of the grant and the applicant conclude a Grant agreement. The legal right to receive the grant is based on enter into force of the Grant agreement. The grant falls under *de minimis* aid rules.

After the Grant agreement entered into force the provider of the aid identified that in consequence of the grant under the Grant agreement in summary with other *de minimis* aid already provided to the beneficiary the ceiling of EUR 200 000 over period of three fiscal years had been exceeded.

Question: Is it in accordance with Article 3(7) of the Regulation No 1407/2013, if the provider and the beneficiary conclude an amendment to the Grant agreement resulting from request of the beneficiary, based on lowering the maximum possible amount of the provided grant so the *de minimis* aid ceiling is not exceeded?

2018.05.21

	<p>▼ Reply</p> <p>Article 3(7) of the de minimis Regulation does not allow an aid measure to be partly covered by the de minimis Regulation (up to the ceiling) if it exceeds the ceiling. However, the de minimis Regulation does not preclude a Member State from granting a new aid measure that respects the ceiling. Therefore, it is possible under the de minimis Regulation to replace the first grant agreement by a lower grant agreement that respects the ceiling.</p> <p><i>Disclaimer: This reply does not represent a formal and definite position of the European Commission but is only an informal guidance provided by the services of DG Competition to facilitate the application of the GBER. It is therefore not binding and cannot create legal certainty or legitimate expectations.</i></p>
COMP Reply date	2018.06.12
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