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# De minimis aid in Poland in the years 2008-2015 – is this aid sustainable or not?

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**Abstract:** Governments have always intervened in the economy. This intervention varies in terms of scope. Presently, one of the most important instruments of government intervention in the economy is the provision of state aid. State aid puts its beneficiaries in a privileged position, which increases the importance of monitoring the aid granted and introducing limitations in terms of its scope and amounts. A particular type of state aid is de minimis aid, which is granted very frequently on account of its low unit value. As a result, the total value of such aid – and therefore also its impact – is very high. An important question is whether and how this type of support influences the implementation of the concept of sustainable development.

**Keywords:** state aid, de minimis aid, Poland, sustainable development

**JEL codes:** H23, H41

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## 1. Introduction

Sustainable development is a challenge to the modern world. It is the most widely accepted modern development theory: it is difficult to imagine a strategic document that would not make a reference to this concept. At the same time, the complexity of the current

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economic situation makes it hard to imagine the market mechanism functioning in separation from the state. One of the instruments governments may use to intervene in the market is state aid: an instrument that, when implemented correctly, can contribute to achieving the desired effects. One example of such an effect is the implementation of the concept of sustainable development. Properly targeted state aid may be an instrument in the implementation of this development concept.

## **2. State aid concept**

Contemporary economic reality is so complicated that it is difficult to imagine the functioning of the market mechanism in isolation from the state. One of the instruments through which the state can intervene in a market economy is state aid. It should be considered part of the economic state intervention, which aims to stimulate positive economic developments or prevention of negative processes (Modzelewska, Pełka 2001: 33). This aid can be considered a tool in the hands of public authorities, which is used to achieve different objectives and tasks of social and economic policy. Governments grant state aid for many reasons: economic, social, political and strategic (Hancher, Ottervanger, Slot 2012: 30). Despite the widespread occurrence of the phenomenon of state aid, there is no legal (normalized by law) definition of that term.

The term ‘state aid’ is very difficult to define clearly. Neither literature nor existing legislation has introduced a single, universally accepted definition. A commonly used interpretation says that in order for a measure to be regarded as state aid four conditions have to be fulfilled, such as a transfer of public funds, donations benefit on terms more favorable than those offered on the market, the transfer must be selective, i.e. to favor certain entities or the production of certain goods, and the transfer must violate or may violate the conditions of competition and affect trade (European Commission, 2012). Those conditions are set out in the Treaty on the Functioning of the European Union, and their total fulfillment means that the measure can be regarded as state aid. De minimis aid because of the low unit value, not are a threat to competition disruption to the market in the European Union. Aid of this kind does not constitute state aid within the meaning of Article 107 Paragraph 1 TFEU . Matters relating to de minimis aid are governed by the Council Regulation on the application of Articles 107 and 108 of the Treaty to de minimis aid (European Commission, 2013). According to this regulation:

- 1) the total value of the de minimis rule for a beneficiary cannot exceed 200 thousand euro in the period of three years,
- 2) support for the entrepreneur cannot get threatened by the guidelines on State aid for rescuing and restructuring firms in difficulty,
- 3) aid must be "transparent", i.e. it must be possible to calculate the ex ante gross grant equivalent without the need for risk assessment,
- 4) in some sectors (agriculture, fisheries, aquaculture, transport and coal) to grant de minimis aid shall be subject to special rules, exclusionary or limiting the possibility of granting it.

### 3. The analysis of de minimis aid granted in Poland in the years 2008-2015

The value of de minimis aid increased very rapidly from 2008 to 2010 (Tab. 1). In 2009, it was more than twice as high as the previous year (having increased by over 133%), and in 2010, it grew by 50% in comparison with 2009. In 2011, the value of de minimis aid fell by about 28% compared with the previous year, returning to a level comparable with 2009. 2012 saw a rise in the total value of de minimis aid by about 24% in comparison with 2011. The upward trend continued for the next two years. In 2013, the value of de minimis aid increased by more than 40% compared with 2012, and in 2014 – by more than 11% compared with 2013. In 2015, much like in 2011, the value of the aid provided decreased by about 28% in comparison with the previous year.

**Table 1.** Value of state aid and de minimis aid from 2008 to 2015 (in millions of euro)

Specification	2008	2009	2010	2011	2012	2013	2014	2015
Value of state aid (in M EUR)	4090.1	4394.5	6030	5211.2	4873.9	4912.1	6036.2	4626.7
Value of de minimis aid (in M EUR)	329.7	770.7	1156.2	836.6	1034.5	1463.5	1630.9	1169.5

Source: Author's own elaboration based on: Urząd Ochrony Konkurencji i Konsumentów, 2009; Urząd Ochrony Konkurencji i Konsumentów 2010, Urząd Ochrony Konkurencji i Konsumentów 2011, Urząd Ochrony Konkurencji i Konsumentów 2012, Urząd Ochrony Konkurencji i Konsumentów 2013, Urząd Ochrony Konkurencji i Konsumentów 2014, Urząd Ochrony Konkurencji i Konsumentów 2015, Urząd Ochrony Konkurencji i Konsumentów 2016.

A comparison of the amounts of the state aid provided in accordance with the requirements of Article 107 of the TFEU (European Commission 2010) and de minimis aid shows that the amount of the latter is considerably smaller, which is understandable considering the limitation of the amount of de minimis aid a single entrepreneur can receive.

In 2008, de minimis aid accounted for 8% of the total value of the aid provided to entrepreneurs. Between 2009 and 2011, it constituted, on average, just under 17%. In the following years, its percentage exceeded 20%, peaking at nearly 30% in 2013. This was a result of the considerable increase in the value of de minimis aid in 2013 and 2014 in comparison with 2012. It is worth noting that despite the decline in the total value of the aid provided, the percentage of the de minimis aid in 2015 remained at roughly the same level as in the two previous years. It was affected neither by the significant surge in the state aid in 2014 nor by its sharp fall in 2015.

It is also worth noting that between 2008 and 2015, the trends (upward/downward) in the state aid value and de minimis aid value were mostly concurrent. The only exception was 2012, when the value of the state aid fell by just under 7% and the de minimis aid increased by nearly 24% compared with the previous year.

In 2009, the rate of change in the value of the de minimis aid (an increase by more than 123%) was higher than in the case of the state aid (an increase by about 7%). In 2010, the rates were similar (a 37% increase in total aid, 50% increase in de minimis aid). This was also the case in 2011 (a decrease by about 14% and 28%, respectively). In 2013, the rise in the value of the de minimis aid was significantly larger than in the case of the state aid: 40% as opposed to less than 1%. In 2014, the rate of change in the value of the de minimis aid (an increase by about 11%) was lower than in the case of the state aid (an increase by almost 23%). In 2015, in turn, the rates were similar (a decrease by about 26%).

**Table 2.** Forms of the de minimis aid between 2008 and 2015 (in millions of euro)

Specification	2008	2009	2010	2011	2012	2013	2014	2015
A: grants and tax exemptions	303.4	741.5	1117.1	795.3	968.3	1138.8	1342.2	936.1
A1: grants	232	662.1	1038.5	704.2	911	1070.6	1268	863.2
A2: tax exemptions	71.4	79.3	78.6	91.1	57.2	68.2	74.2	72.9
B: state equity participation	0.3	0.2	5.3	4.4	12.1	24.6	17.4	41.7
B1: contribution of capital	0.3	0.2	5.3	4.4	12.1	24.6	17.4	41.7
C: soft loans	19.2	20.7	21.3	21.4	27.1	44.3	49.7	45.5
C1: participatory loans	10.9	9.5	9.8	12.5	11.6	24.7	28.5	30
C2: tax deferral or division into instalments	8.3	11.2	11.5	8.9	15.6	19.6	21.2	15.4
D1: guarantees	0	0.1	1.6	5.7	10.5	235.7	189.6	110.7
E: others	6.8	8.3	10.9	9.7	16.5	20.1	32.1	35.4
Total	329.7	770.8	1156.2	836.5	1034.5	1463.5	1631	1169.4

Source: Author's own elaboration based on: Urząd Ochrony Konkurencji i Konsumentów 2009; Urząd Ochrony Konkurencji i Konsumentów 2010, Urząd Ochrony Konkurencji i Konsumentów 2011, Urząd Ochrony Konkurencji i Konsumentów 2012, Urząd Ochrony Konkurencji i Konsumentów 2013, Urząd Ochrony Konkurencji i Konsumentów 2014, Urząd Ochrony Konkurencji i Konsumentów 2015, Urząd Ochrony Konkurencji i Konsumentów 2016.

Table 2 presents data concerning forms of de minimis aid divided into four groups marked with the letters A, B, C and D. Subgroups were identified within each group and marked with the number 1 or 2 depending on whether they involve a payout of funds from the budget (1) or a reduction of budget contributions (2).

In terms of the size of the beneficiary, it can be noticed that in each of the analyzed years, the majority of aid was provided to micro-enterprises, which received more than 72% of the total aid (Tab. 3). The combined amount of the aid provided to micro, small and medium-sized enterprises during the period under analysis constituted 95% of the total. Reasons for this phenomenon may include the fact that de minimis aid is provided under simple rules, often with no connection to a particular project, as well as the fact that the capital absorption capabilities of such companies are limited. Most of the entities classified as large enterprises are communes. In 2015, seven of the ten beneficiaries classified as large enterprises that received the most aid were communes (local governments that engage in business activity are enterprises according to the EU law), which received de minimis aid mainly pursuant to the Act of 7 March 2007 on support for the development of rural areas using resources of the European Agricultural Fund for Rural Development as part of the Rural Development Programme for 2007-2013 (Act of 2008) and the Act on the principles of development policy (Act of 2007).

**Table 3.** Structure of the de minimis aid by size of the beneficiary between 2008 and 2015 (%)

Size of the beneficiary	2008	2009	2010	2011	2012	2013	2014	2015
micro	63.2	77.4	76.9	77.3	77.3	69.0	70.3	65.5
small	15.5	11.5	11.2	9.5	11.1	16.7	17.5	19.5
medium	13.8	6.9	7.3	8.1	6.9	10.5	9	9.8
large	7.5	4.2	4.6	5.1	4.7	3.8	3.2	5.2
Total	100	100	100	100	100	100	100	100

Source: Author's own elaboration based on: Urząd Ochrony Konkurencji i Konsumentów 2009; Urząd Ochrony Konkurencji i Konsumentów 2010, Urząd Ochrony Konkurencji i Konsumentów 2011, Urząd Ochrony Konkurencji i Konsumentów 2012, Urząd Ochrony Konkurencji i Konsumentów 2013, Urząd Ochrony Konkurencji i Konsumentów 2014, Urząd Ochrony Konkurencji i Konsumentów 2015, Urząd Ochrony Konkurencji i Konsumentów 2016.

Data concerning the legal frame of business activity of the beneficiaries of de minimis aid is available for the years 2012-2015 (Tab. 4). In each of these years, a vast majority of the aid was provided to private entrepreneurs – on average, it constituted 96,1% of the total. The percentage of other beneficiaries was minimal.

**Table 4.** Structure of the de minimis aid by legal frame of business activity of the beneficiary between 2012 and 2015 (%)

Legal frame	2012	2013	2014	2015
Private entrepreneurs	95.3	96.5	96.4	94.68
Joint-stock companies and limited liability companies for which the State Treasury, a local government unit and a state or communal organizational unit are dominant entities	4.0	2.9	3.1	3.25
Companies and partnerships in which a local government unit holds 100% of the stocks or shares	0.3	0.3	0.2	1.5
Public finance entities as defined by the Act of 27 August 2009 on public finance (Journal of Laws 2013, item 885, as amended)	0.2	0.2	0.2	0.4
State enterprises	0.2	0.1	0.1	0.13
Single-member companies of the State Treasury	0.1	0.1	0	0.04
Total	100.1	100.1	100	100

Source: Author's own elaboration based on: Urząd Ochrony Konkurencji i Konsumentów 2009; Urząd Ochrony Konkurencji i Konsumentów 2010, Urząd Ochrony Konkurencji i Konsumentów 2011, Urząd Ochrony Konkurencji i Konsumentów 2012, Urząd Ochrony Konkurencji i Konsumentów 2013, Urząd Ochrony Konkurencji i Konsumentów 2014, Urząd Ochrony Konkurencji i Konsumentów 2015, Urząd Ochrony Konkurencji i Konsumentów 2016.

Table 5 presents the amount of aid by voivodeship. The criterion for the determination of the amount of the aid provided to individual voivodeships was the location of the registered office of the enterprise that received the aid. As a result, the high value of the de minimis aid assigned to some voivodeships may stem from the fact that many entrepreneurs choose to establish their head offices in large cities. There is, however, a possibility of an enterprise whose registered office is located in one voivodeship receiving de minimis aid in connection with business activity conducted in another voivodeship (e.g., maintaining a branch there) (Urząd Ochrony Konsumentów i Konkurencji, 2016). In each of the years analyzed except 2011, the largest amount of aid was provided to enterprises operating in Mazovian Voivodeship. In 2011, entrepreneurs from Greater Poland Voivodeship received the most aid. In the remaining years, Greater Poland was either second or third, alternating with Silesian Voivodeship.

**Table 5.** Share of individual voivodeships in the total amount of the de minimis aid provided from 2008 to 2015 (%)

Voivodeships	2008	2009	2010	2011	2012	2013	2014	2015
Lower Silesian	8.8	6.4	6.4	6.1	6.6	6.8	6.8	7.5
Kuyavian-Pomeranian	4.9	6.8	6.1	6.7	5.6	5.1	5.7	6.2
Lublin	4.2	5.3	5.3	5.8	6.3	5.3	5.5	4.4
Lubusz	3.1	2.6	2.7	2.4	2.5	2.3	2.6	2.6
Łódź	7.9	6.3	6.9	6.2	6.4	6	6.1	5.8
Lesser Poland	7.2	8.4	8.4	9.4	9.2	7.7	8.9	8.2
Mazovian	11.4	13.7	12.2	12.4	13.6	16.6	14.5	15.0
Opole	2.9	3.3	4	2.2	2.7	2.3	2.3	2.7
Subcarpathian	5.4	6.9	7	6.4	6.4	6.2	7.2	5.8
Podlaskie	2.4	2.5	2.9	3.4	3.6	2.6	3	2.7
Pomeranian	7.6	7.3	5.8	5.5	5.3	6	5.9	6.5
Silesian	10.2	9.7	9.6	7.6	8.1	9.6	9.9	10.2
Świętokrzyskie	4.2	4.1	3.6	4.2	3.4	3	3.1	3.1
Warmian-Masurian	4.9	4.4	4	4.2	4.8	4.3	3.9	4.3
Greater Poland	10.8	8.6	11.8	13.7	11.4	11.8	10.2	10.9
West Pomeranian	4.0	3.7	3.5	3.8	4.3	4.5	4.4	4.3
Total	100	100	100	100	100	100	100	100

Source: Author's own elaboration based on: Urząd Ochrony Konkurencji i Konsumentów 2009; Urząd Ochrony Konkurencji i Konsumentów 2010, Urząd Ochrony Konkurencji i Konsumentów 2011, Urząd Ochrony Konkurencji i Konsumentów 2012, Urząd Ochrony Konkurencji i Konsumentów 2013, Urząd Ochrony Konkurencji i Konsumentów 2014, Urząd Ochrony Konkurencji i Konsumentów 2015, Urząd Ochrony Konkurencji i Konsumentów 2016.

The variation in the amounts of the aid provided to enterprises in individual voivodeships may stem from the fact that voivodeships differ significantly in terms of their level of entrepreneurship understood as the percentage of entrepreneurs operating in a given voivodeship in the total number of entrepreneurs registered in Poland. This means that conducting analyses based solely on the total values of aid provided in each voivodeship may be misleading. Levels of the entrepreneurship in each voivodeship are therefore presented in Table 6.

The level of entrepreneurship was higher than the voivodeship's share in the total aid provided in Poland in 6 voivodeships in 2009, 7 in 2010 and 2011, 6 in 2012 and 8 in 2014 and 2015. In the remaining voivodeships, the level of entrepreneurship was lower than the percentage of the aid provided to a given voivodeship. In each of the analyzed years – except

2013 – the largest difference between the level of entrepreneurship and the share in the total state aid provided in Poland could be observed in Mazovian Voivodeship.

**Table 6.** Level of entrepreneurship in Polish voivodeships between 2009 and 2015 (%)

Voivodeship	2008	2009	2010	2011	2012	2013	2014	2015
Greater Poland	-	8.5	8.5	8.5	8.5	8.5	8.5	8.5
Kuyavian-Pomeranian	-	4.9	4.8	4.8	4.7	4.7	4.7	4.7
Lesser Poland	-	4.2	4.2	4.2	4.2	4.2	4.2	4.1
Lower Silesian	-	2.7	2.7	2.7	2.7	2.5	2.7	2.7
Lublin	-	5.9	5.9	5.9	5.9	5.8	5.8	5.8
Lubusz	-	8.4	8.5	8.6	8.6	8.6	8.7	8.7
Łódź	-	17.3	17.4	17.4	17.6	17.8	18	18.4
Mazovian	-	2.6	2.5	2.5	2.5	2.7	2.4	2.4
Opole	-	3.9	3.9	3.9	3.9	3.9	3.9	4.0
Podlaskie	-	2.4	2.4	2.4	2.4	2.4	2.4	2.4
Pomeranian	-	6.7	6.7	6.7	6.7	6.7	6.7	6.6
Silesian	-	11.5	11.6	11.5	11.4	11.3	11.2	11.2
Subcarpathian	-	2.82	2.8	2.7	2.7	2.7	2.7	2.6
Świętokrzyskie	-	3.1	3.0	3.0	3	3	3	2.9
Warmian-Masurian	-	9.6	9.6	9.7	9.8	9.8	9.8	9.9
West Pomeranian	-	5.8	5.6	5.5	5.5	5.4	5.3	5.2
Total	-	100	100	100	100	100	100	100

Source: Author's own elaboration based on: Urząd Ochrony Konkurencji i Konsumentów 2009; Urząd Ochrony Konkurencji i Konsumentów 2010, Urząd Ochrony Konkurencji i Konsumentów 2011, Urząd Ochrony Konkurencji i Konsumentów 2012, Urząd Ochrony Konkurencji i Konsumentów 2013, Urząd Ochrony Konkurencji i Konsumentów 2014, Urząd Ochrony Konkurencji i Konsumentów 2015, Urząd Ochrony Konkurencji i Konsumentów 2016.

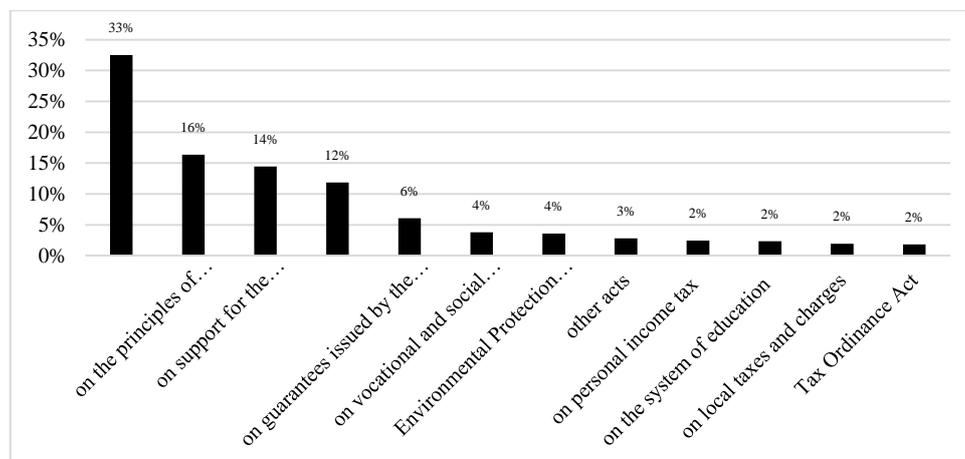
Table 7 presents information regarding the value of the de minimis aid on the legal basis of its provision. From 2008 to 2010 and from 2013 to 2015, the most aid was provided pursuant to the Act on employment promotion and labor market institutions (Act of 2005). Pursuant to the Act, the aid is provided by Voluntary Labor Corps in the form of reimbursement of the remuneration of adolescent workers and by *Starosts* (heads of counties) as part of intervention works. From 2011 to 2012, most of the aid was provided pursuant to the Act on support for the development of rural areas using resources of the European Agricultural Fund for Rural Development as part of the Rural Development Program for 2007-2013 (Act of 2008). Analyzing the presented data, one can conclude that the value and the changes in the value of aid provided pursuant to a given legislative act were principally determined by the redistribution of funds originating from the budget of the European Union.

**Table 7.** Value of the de minimis aid on the legal basis of its provision from 2008 to 2015 (%)

Act	2008	2009	2010	2011	2012	2013	2014	2015
on promotion of employment and labor market institutions (Act of 2005)	596.9	1452.2	2121	613.8	1100	1319.6	1787.5	2252.7
on the principles of development policy (Act of 2007)	11.1	364.5	728	603.9	734.1	1198.5	1398.6	618.9
on guarantees issued by the state treasury and some legal entities (Act of 2004)	-	-	-	-	-	932.6	745.7	421.6
on the creation of the Polish Agency for Enterprise Development (Act of 2000)	3.2	451.9	576.9	307.2	406.4	1027.9	936.5	397
Environmental Protection Law (Act of 2001)	65.9	97	121.6	132.1	156.7	188.6	201.9	272
on the system of education (Act of 1991)	-	-	-	-	191	224.5	184.4	212.2
on support for the development of rural areas using resources of the European Agricultural Fund for Rural Development as part of the Rural Development Program for 2007-2013 (Act of 2008)	-	325.5	448.3	1165.5	1228.2	708.4	963.8	163.4
on vocational and social rehabilitation and employment of persons with disabilities (Act of 1997)	99.3	191.9	196.8	196.4	176.1	143.1	154.9	147.8
Tax Ordinance Act (Act of 1997)	65.5	75.4	71.2	73.3	73	84.2	95.1	87.8
on local taxes and charges (Act of 1991)	78.4	90.5	104.4	102.5	63.4	70.7	80.4	81.7
on personal income tax (Act of 1991)	96.3	105.8	121.4	183.9	91.4	83.4	83.1	74.9
on the National Center for Research and Development (Act of 2010)	-	-	-	-	-	-	-	23.1
on the conversion of the right of perpetual usufruct into an ownership title to real estate (Act of 2005)	-	-	-	-	-	-	62.2	22.5
on the National Development Plan (Act of 2004)	47.7	-	-	-	-	-	-	-
other legislative acts	95.1	129.0	-	68.0	109.2	161.5	131.3	117.2
<b>Total</b>	<b>1159.4</b>	<b>3283.7</b>	<b>4489.6</b>	<b>3446.6</b>	<b>4329.5</b>	<b>6143</b>	<b>6825.4</b>	<b>4892.8</b>

Source: Author's own elaboration based on: Urząd Ochrony Konkurencji i Konsumentów 2009; Urząd Ochrony Konkurencji i Konsumentów 2010, Urząd Ochrony Konkurencji i Konsumentów 2011, Urząd Ochrony Konkurencji i Konsumentów 2012, Urząd Ochrony Konkurencji i Konsumentów 2013, Urząd Ochrony Konkurencji i Konsumentów 2014, Urząd Ochrony Konkurencji i Konsumentów 2015, Urząd Ochrony Konkurencji i Konsumentów 2016.

The structure of the granted support according to the basis of granting for the entire analyzed period is shown in Fig. 1.



**Figure 1.** Structure of the granted de minimis aid according to the basis of granting for the years 2008-2015 (%)

Source: Author's own elaboration based on: Urząd Ochrony Konkurencji i Konsumentów 2009; Urząd Ochrony Konkurencji i Konsumentów 2010, Urząd Ochrony Konkurencji i Konsumentów 2011, Urząd Ochrony Konkurencji i Konsumentów 2012, Urząd Ochrony Konkurencji i Konsumentów 2013, Urząd Ochrony Konkurencji i Konsumentów 2014, Urząd Ochrony Konkurencji i Konsumentów 2015, Urząd Ochrony Konkurencji i Konsumentów 2016.

#### 4. Analysis of the de minimis aid granted in the context of the implementation of sustainable development

De minimis aid may contribute to implementation of the concept of sustainable development (i.e., adhere to the principles of sustainable development). In such cases, it can be described as beneficial from the point of view of sustainable development. De minimis aid, however, may also be in conflict with the principles of sustainable development. Such aid can be described as harmful to sustainable development. In cases where it is difficult to unambiguously categorize a particular type of de minimis aid, it can be described as neutral from the point of view of the concept of sustainable development.

In the context of de minimis aid, such an analysis can be conducted on the basis of the legal foundations for its provision. Taking into account each of the legal acts serving as a basis for the provision of aid, one can attempt to classify the aid provided pursuant to these acts according to its influence on the implementation of the concept of sustainable development. The assessment of individual legal acts will be subjective in most cases, as it is very difficult to connect principles of sustainable development with objectives that the aid provided pursuant to a given act is intended to contribute to fulfilling. The assessment can be also facilitated by determining whether the provision of state aid contributes to fulfilling

environmental, social and economic objectives. In order to make the assessment as objective as possible, one can create an assessment form and answer the questions in it to determine the type of state aid in question. Below is an example of such an assessment scheme:

- Determine whether the legal basis mentions that the aid contributes to the implementation of sustainable development (yes or no).
- Determine whether the provision of the state aid will contribute to the fulfillment of an environmental objective (yes or no).
- Determine whether the provision of the state aid will contribute to the fulfillment of an economic objective (yes or no).
- Determine whether the provision of the state aid will contribute to the fulfillment of a social objective (yes or no).
- Determine whether the aid can be connected with the principles of sustainable development as defined in the Rio Declaration (principle number/no).
- Determine the type of state aid from the point of view of its influence on the implementation of the concept of sustainable development (beneficial, harmful, neutral).

The above scheme will be used to assess the legal provisions constituting the basis for the provision of the de minimis aid in Poland from 2008 to 2015.

The evaluation of individual legal bases for the provision of the state aid is presented in Table 7.

**Table 7.** Evaluation scheme of the legal bases for the provision of de minimis aid

Act	Reference to sustainable development in the Act	Fulfillment of an environmental objective	Fulfillment of an economic objective	Fulfillment of a social objective	Possibility of connecting with principles of sustainable development as defined in the Rio Declaration	Type of state aid from the point of view of sustainable development
Act on promotion of employment and labor market institutions (Act of 2005)	-	-	+	+	1, 5,	beneficial
on the principles of development policy (Act of 2007)	+	+	+	+	3, 4,	beneficial
on guarantees issued by the state treasury and some legal entities (Act of 2004)	-	-	+	-	-	neutral
on the creation of the Polish Agency for Enterprise Development (Act of 2000)	-	-	+	+	3, 4,	beneficial
Environmental Protection Law (Act of 2001)	+	+	+	+	4, 10, 11, 13, 15,	beneficial
on the system of education (Act of 1991)	+	-	-	+	-	beneficial
	+	+	+	+	3, 4,	beneficial

Act	Reference to sustainable development in the Act	Fulfillment of an environmental objective	Fulfillment of an economic objective	Fulfillment of a social objective	Possibility of connecting with principles of sustainable development as defined in the Rio Declaration	Type of state aid from the point of view of sustainable development
on support for the development of rural areas using resources of the European Agricultural Fund for Rural Development as part of the Rural Development Program for 2007-2013 (Act of 2008)	-	-	+	+	5	beneficial
on vocational and social rehabilitation and employment of persons with disabilities (Act of 1997)	-	-	+	-	-	neutral
Tax Ordinance Act (Act of 1997)	-	+	+	+	-	neutral
on local taxes and charges (Act of 1991)	-	+	+	+	-	neutral
on personal income tax (Act of 1991)	-	+	+	+	9	beneficial
on the National Centre for Research and Development (Act of 2010)	-	-	+	+	-	neutral
on the conversion of the right of perpetual usufruct into an ownership title to real estate (Act of 2005)	-	+	+	+	3, 4,	beneficial

Source: Author's own elaboration

The Act on promotion of employment and labor market institutions does not make a direct reference to sustainable development. However, an analysis of the provisions of the Act makes it possible to draw the conclusion about its implementation – and, by extension, the support provided pursuant to it – contributes to the fulfillment of the social and economic objectives of sustainable development. Support provided pursuant to the Act contributes to the promotion of employment, the mitigation of the effects of unemployment and the professional activation of the unemployed. State aid provided pursuant to the Act is intended to contribute to creation of full and productive employment, development of human resources, achievement of a high quality of work, reinforcement of social solidarity and integration and an increase in mobility on the job market. Provisions of the Act can also be connected with two principles of sustainable development included in the Rio Declaration. This makes it possible to conclude that state aid provided pursuant to this Act can be considered to be beneficial from the point of view of sustainable development.

In the Act on the principles of development policy, one can find a direct reference to the concept of sustainable development. It is indicated that the development policy is understood as a set of interconnected activities undertaken and carried out with the goal of ensuring sustainable and balanced development of the country and socio-economic, regional

and territorial cohesion, as well as increasing the competitiveness of the economy and creating jobs on a national, regional or local scale. The Act also notes the necessity of planning national development strategies that include principles of sustainable development. One can therefore also say that public aid provided pursuant to the Act will contribute to the fulfillment of environmental, social and economic objectives of sustainable development. The Act is the legal basis for the establishment of operational programs enabling beneficiaries to receive EU funding. During the development of each operational program, the responsible entities were obligated to analyze the compatibility of the program with the principles of sustainable development. The provisions of the Act can be directly linked to two principles of sustainable development included in the Rio Declaration, too. State aid provided pursuant to the Act has a positive effect on the implementation of sustainable development.

Analyzing the provisions of the Act on guarantees issued by the state treasury and some legal entities, it is very difficult to find any references to sustainable development. Support provided pursuant to this Act can be therefore described as neutral from the point of view of sustainable development.

The Act on the establishment of the Polish Agency for Enterprise Development does not contain a direct reference to the concept of sustainable development. It is also difficult to find any references to the fulfillment of environmental objectives of sustainable development, as the specific objectives of the Agency are directly connected with economic and social objectives of sustainable development. According to the Act, the Agency was established in order to support enterprises (particularly micro-enterprises, small and medium-sized enterprises and persons seeking to start a business activity), export, regional development, innovation, job creation, unemployment prevention, human resources development and improvement of the adaptive capacity of enterprises. Provisions of the Act can also be connected with two principles of sustainable development included in the Rio Declaration.

The Environmental Protection Law includes a direct reference to sustainable development. The Act determines the principles of environmental protection and sets out conditions for the use of natural resources with regard to the requirements of sustainable development. The implementation of the provisions of the Act also contributes to the fulfillment of environmental, social and economic objectives of sustainable development. The Act, as well as the secondary legislation issued pursuant to it, intends to contribute to protecting the environment and improving its condition, thereby positively influencing the social sphere by improving the quality of life of the citizens. Business activity is to be

conducted in a way that minimizes its negative influence on the environment and society. Provisions of the Act can also be linked to five principles of sustainable development included in the Rio Declaration.

According to the Act on the system of education, the Polish education system ensures that the knowledge of the principles of sustainable development is disseminated among children and youth, shaping attitudes that are conducive to implementation of sustainable development on a local, national and global scale. The Act will thus fulfill social objectives of sustainable development connected with raising awareness. The provisions of the Act are however difficult to connect with the fulfillment of environmental objectives and the principles of sustainable development contained in the Rio Declaration. Considering the fact that the objective of the Act is to support education, the aid provided pursuant to it should be classified as beneficial from the point of view of the implementation of sustainable development.

The implementation of the Act on support for the development of rural areas, using resources of the European Agricultural Fund for Rural Development as part of the Rural Development Programme for 2007-2013, is intended to ensure sustainable support for rural areas. Aid provided pursuant to the Act will contribute to the fulfillment of objectives from all three dimensions of sustainable development. It enables the development of infrastructure contributing to environmental protection, such as the construction of water supply and sewage networks, as well as supporting agricultural production using environmentally friendly methods. The development of human resources in rural areas will take place through structural changes and searching for new forms of activity for people leaving agricultural occupations. Provisions of the Act can be linked to two principles of sustainable development included in the Rio Declaration. It can therefore be concluded that support provided pursuant to the Act will have a positive impact on the implementation of sustainable development.

The Act on vocational and social rehabilitation and employment of persons with disabilities does not directly reference the concept of sustainable development. Aid provided pursuant to the Act contributes to the fulfillment of economic and social objectives. The Act makes it possible for employers of persons with disabilities to be reimbursed for additional costs incurred in connection with the employment of such persons. The Act will thereby increase the employment rate of persons with disabilities as well as provide employers with access to qualified employees in a situation of increasing shortage of employees. The activities undertaken will contribute to the reduction of social exclusion of persons with

disabilities and to their increased social integration. Support provided pursuant to the Act is therefore beneficial to the implementation of the concept of sustainable development.

Support provided pursuant to the Tax Ordinance Act will contribute to the fulfillment of economic objectives of sustainable development, as it regulates the functioning of fees and taxes. It therefore directly influences the economic sphere. However, considering the scope of different types of fees and taxes, it also indirectly influences the remaining spheres of sustainable development.

The Act on local taxes and charges does not include a direct reference to the concept of sustainable development. The Act governs the functioning of the property tax, tax on means of transportation, market dues, visitor's tax, spa tax, advertising tax and dog ownership tax. These taxes and charges have an influence on each sphere of sustainable development. It is, however, difficult to determine which particular taxes and charges were a subject of state aid. This aid therefore has a neutral influence on the implementation of the concept of sustainable development.

The Act on personal income tax does not contain a direct reference to the concept of sustainable development. Analyzing the scope of the provisions of the Act, one can conclude that support provided pursuant to it contributes to the fulfillment of objectives in all areas of sustainable development. Personal income tax revenue allows the government to undertake activities in the environmental area or positively influence the social sphere. However, this revenue is not always used to finance activities that are beneficial to the implementation of sustainable development. One should also remember that support granted pursuant to the Act is provided in passive forms, i.e., remission, division into installments or postponement of a liability. It is therefore difficult to find a positive influence of this type of support on sustainable development.

The Act on the National Center for Research and Development does not directly reference the concept of sustainable development. The Center manages scientific research and development funds. Its mission is to support Polish research centers and enterprises in developing their ability to create and use research-based solutions in order to stimulate the development of the economy and benefit the society. The support of research and development and its subsequent practical implementation is a priority in the modern world. Thus, it can be said that the provision of this type of aid has a positive influence on the implementation of sustainable development.

The Act on the conversion of the right of perpetual usufruct into an ownership title to real estate does not contain a direct reference to the concept of sustainable development. The

implementation of the provisions of the Act contributes to the fulfillment of social and economic objectives, as the acquisition of an ownership title is very often a stimulus for development. One can assess this as beneficial from the point of view of sustainable development. The support is granted in passive forms: relief or division of a liability into installments.

The Act on the National Development Plan determined the objectives of the socio-economic development of Poland (including supported regional development objectives) and methods of achieving them within the 2004-2006 EU funds programming period. The Act contains no direct reference to the concept of sustainable development. Considering the fact that sustainable development is one of the horizontal policies of the European Union, operational programs serving as bases for the provision of support must comply with this concept of development. These funds have allowed Poland to pursue the path of sustainable development.

## **5. Conclusion**

The objective of the conducted analysis was to determine whether the *de minimis* aid provided in Poland can contribute to the implementation of the concept of sustainable development. The issue is particularly important considering the fact that between 2008 and 2015, the total value of such aid exceeded €34.7 billion. Of that amount, as the conducted research has shown, nearly €29.5 billion (i.e., more than 85%) can be classified as aid that is beneficial to the implementation of the concept of sustainable development. The remaining €5.1 billion is constituted by support neutral from the point of view of sustainable development. This shows that despite the risk of distortion of competition, state aid can have a positive effect on the implementation of sustainable development. However, one must remember that the analysis conducted should be treated as a starting point for more detailed studies. Accordingly, a detailed analysis should be conducted of all secondary legislation issued pursuant to the legal acts which have been analyzed. This will make it possible to conduct further detailed analysis of the support provided. Nevertheless, the analysis conducted in this article allows us to draw general conclusions regarding the suitability of the provision of *de minimis* aid in the context of the implementation of the principles of sustainable development. In principle, *de minimis* aid has a low value and is provided to a large number of beneficiaries. For that reason, a very important issue is its proper targeting.

Besides the basic objectives it aims to achieve, it should also at least indirectly contribute to the attainment and full implementation of the objectives of sustainable development.

## Literature

European Commission (2012). Consolidated version of the Treaty on the Functioning of the European Union, O.J. C 326/2012.

European Commission (2013). 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, OJ L 352/1.

Hancher L., Ottervanger T., Slot P.J. (2012). EU State Aids, Leiden: Sweet & Maxwell.

Modzelewska-Wąchal E., Pełka P., Stasiak M. (2001). Pomoc publiczna dla przedsiębiorców i jej nadzorowanie. Warszawa: LexisNexis.

Obwieszczenie Marszałka Sejmu Rzeczypospolitej Polskiej z dnia 10 września 2003 r. w sprawie ogłoszenia jednolitego tekstu ustawy o poręczeniach i gwarancjach udzielanych przez Skarb Państwa oraz niektóre osoby prawne (2003), Dz.U. z 2003 r. nr 174 poz. 1689.

The law of April 20th, 2004, on employment promotion and labour market institutions, Law Journal no 99 item 1001.

The law of April 20th, 2004, on National Development Plan, Law Journal no 116 item 1206.

The law of April 27th, 2001, Environmental Protection Law, Law Journal no 62 item 627.

The law of April 30th, 2010, on the National Centre for Research and Development, Law Journal no 96 item 616.

The law of August 27th, 1997, on vocational and social rehabilitation and employment of persons with disabilities, Law Journal no 123 item 776.

The law of August 29th, 1997, Tax Ordinance Act, Law Journal no 137 item 926.

The law of December 6th, 2006, r. on the principles of development policy, Law Journal no 227, item 1658.

The law of January 12th, 1991, on local taxes and charges, Law Journal no 9 item 31.

The law of July 26th, 1991, on personal income tax, Law Journal no 80 item 350.

The law of July 29th, 2005, on the conversion of the right of perpetual usufruct into an ownership title to real estate, Law Journal no 175 item 1459.

The law of March 7th, 2007, on support for the development of rural areas using resources of the European Agricultural Fund for Rural Development as part of the Rural Development Programme for 2007-2013, Law Journal no 64 item 427.

The law of November 9th, 2000, on the creation of the Polish Agency for Enterprise Development, Law Journal no 109 item 1158.

The law of September 7th, 1991, on the system of education, Law Journal no 95 item 425.

Urząd Ochrony Konkurencji i Konsumentów (2009). Pomoc de minimis w Polsce udzielona przedsiębiorcom w 2008 roku, Warszawa.

Urząd Ochrony Konkurencji i Konsumentów (2010). Pomoc de minimis w Polsce udzielona przedsiębiorcom w 2009 roku, Warszawa.

Urząd Ochrony Konkurencji i Konsumentów (2011). Pomoc de minimis w Polsce udzielona przedsiębiorcom w 2010 roku, Warszawa.

Urząd Ochrony Konkurencji i Konsumentów (2012). Pomoc de minimis w Polsce udzielona przedsiębiorcom w 2011 roku, Warszawa.

Urząd Ochrony Konkurencji i Konsumentów (2013). Pomoc de minimis w Polsce udzielona przedsiębiorcom w 2012 roku, Warszawa.

Urząd Ochrony Konkurencji i Konsumentów (2014). Pomoc de minimis w Polsce udzielona przedsiębiorcom w 2013 roku, Warszawa.

Urząd Ochrony Konkurencji i Konsumentów (2015). Pomoc de minimis w Polsce udzielona przedsiębiorcom w 2014 roku, Warszawa.

Urząd Ochrony Konkurencji i Konsumentów (2016). Pomoc de minimis w Polsce udzielona przedsiębiorcom w 2015 roku, Warszawa.

### **POMOC DE MINIMIS W POLSCE W LATACH 2008-2015 – CZY POMOC TA JEST ZRÓWNOWAŻONA CZY NIE?**

#### Streszczenie

Rządy zawsze ingerują w obszar gospodarki swoich państw. Skala takiej interwencji jest zróżnicowana pod względem zakresu. Obecnie, jednym z najważniejszych instrumentów rządowej ingerencji w gospodarkę jest zapewnienie pomocy państwowej. Pomoc taka stawia beneficjentów w uprzywilejowanej pozycji, co podnosi wagę monitorowania przyznawanych środków pomocowych oraz wprowadza ograniczenia w kwestii zakresu i kwot. Szczególnym typem pomocy państwowej jest pomoc de minimis, której udziela się bardzo często ze względu na jej niską wartość jednostkową. W wyniku tego, całkowita wartość takiej pomocy, a co za tym idzie – jej wpływ – mogą być bardzo wysokie. Nasuwają się istotne pytania czy i jak ten typ wsparcia wpływa na wdrożenie koncepcji zrównoważonego rozwoju.

**Słowa kluczowe:** pomoc państwowa, pomoc de minimis, Polska, rozwój zrównoważony

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