



Position Paper

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EUROCHAMBRES' position on the review of the EU SME definition

With Small and Medium-sized Enterprises (SMEs) being faced by specific challenges and disproportionately affected by administrative and regulatory burdens compared to large companies, the EU SME definition is a tool to ensure that available support and measures to reduce regulatory burdens focus on those businesses that need them the most. It is also instrumental in creating a level playing field for EU SMEs within the Internal Market.

The current EU SME definition, as set out in [Recommendation 2003/361/EC](#), identifies SMEs on the basis of:

- staff headcount and
- either turnover or balance sheet total (financial parameters) and
- independence/ownership.

Overall, **EUROCHAMBRES considers that the level and scope of such criteria remain adequate** and that the **EU SME definition is fit for purpose** and therefore **does not require major changes**.

Definition thresholds

The SME definition already encompasses 99.8% of businesses in the EU. Increasing the thresholds would make the definition redundant, as nearly all enterprises would be covered. Moreover, it would undermine its key objective to ensure that available support and special measures to reduce administrative and regulatory burdens focus on those enterprises that are most in need of them.

EUROCHAMBRES acknowledges that a reassessment of the financial ceilings may be pertinent in view of the compound increase in inflation and productivity since 2003. An adjustment of the financial thresholds should be considered exclusively to potentially reintegrate those enterprises that have been excluded from the definition because of developments not related to real growth. It should not lead to a higher number of bigger companies falling into the category of SMEs.

The current SME definition distinguishes between three categories of enterprises: medium-sized, small and micro. Within the latter, which includes enterprises employing fewer than 10 people, it would be useful to further distinguish one-person businesses.

Definition criteria

The criteria of staff headcount and either turnover or balance sheet total (together with the provisions relating to independence/ownership) are largely adequate to determine whether a company is an SMEs.

Albeit there might be arguments for factoring elements other than size and either turnover or balance-sheet into policy discussions and measures, such as sector, activity, or phase in the business life cycle, it would be extremely complex, both for administrations and businesses, to attempt further to cover such variables in the SME definition itself. This complexity could in turn undermine the correct application of the definition. It is crucial that the SME definition is clear and simple, not least to ensure that it is correctly

applied and that it proves effective in policy implementation. Instead of redefining parameters, the focus should be on how the definition is applied.

Lock-in effects

According to Art. 4(2) of the Annex to Recommendation 2003/361/EC, if an enterprise exceeds the headcount or financial ceilings for two consecutive years, it loses its SME status.

This raised the question, expressed in the Commission's Inception Impact Assessment of June 2017, of whether such provision might create lock-in effects deterring companies from growing beyond size ceilings because of the associated loss of benefits linked to the SME status.

In the September 2012 Evaluation of the SME definition, lock-in effects discouraging SMEs to scale-up were not attributed to the definition but to taxation and labour market regulations applying at national level and to the application of other ceilings that are not related to the provisions of Recommendation 2003/361/EC. No evidence of lock-in effects caused by the SME definition was found. This suggests that a change to the definition is not the key to tackle the issue of lock-in effects. Moreover, wherever thresholds are set, there will be implications, as certain companies will be excluded.

EUROCHAMBRES is therefore in favour of maintaining the two-year 'grace period' unchanged.

Legal certainty

In light of the Court cases T-675/2013 (Chimica) and T-587/14 (Crosfield) concerning the interpretation of Art. 6 of the Annex to Recommendation 2003/361/EC with regard to the calculation of the data of an enterprise and of its linked and partner enterprises, EUROCHAMBRES recognises the need to enhance legal certainty by making the relevant provisions clearer and leaving less room for interpretation.

EUROCHAMBRES agrees with the approach adopted by the General Court, according to which to determine the size of an enterprise only the partner or linked companies to the enterprise in question until the second degree should be considered. At the same time, EUROCHAMBRES acknowledges that it is crucial to avoid any artificial increase in the number of enterprises that fall into the category of SMEs despite not being SMEs within the spirit of the Recommendation. Equally important is to prevent large companies from designing corporate structures and setting up 'satellite' entities to take advantage of the benefits associated to the status of SMEs despite not being 'genuine' SMEs.

As previously stressed, also with a view to enhancing legal certainty, any potential changes to the EU SME definition should be aimed to ensure that support programmes and measures are targeted as much as possible at those businesses for which they are designed.

Enterprises with a public ownership

According to Art. 3(4) of the Annex to Recommendation 2003/361, 'an enterprise cannot be considered an SME if 25% or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies'. The 25% public ownership threshold is appropriate and should be maintained.

In conclusion, EUROCHAMBRES reiterates that there is no need for a major revision of the EU SME Definition. The criteria of staff headcount, turnover or balance sheet total and independence/ownership are still considered adequate and should not be fundamentally modified. However, a reassessment of the financial thresholds might be considered and legal certainty should be enhanced. In order for the EU SME definition to be correctly applied, it needs to be clear and simple. Therefore, elements other than size, turnover or balance-sheet and independence/ownership should not be included in the definition. Enterprises with a public ownership of more than 25% should continue to be excluded from the scope of the EU SME definition and the two-year 'grace period' for companies to maintain the SME status should not be extended.

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